

1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA
3 BEFORE THE HONORABLE LARRY R. HICKS, DISTRICT JUDGE

4 LAURA LEIGH, :
5 Plaintiff, : No. 3:10-cv-597-LRH-VPC
6 vs. :
7 KEN SALAZAR, et al., :
8 Defendants. :
9 _____ :
10

11 PARTIAL TRANSCRIPT OF PRELIMINARY INJUNCTION HEARING

12 (Testimony of Terri Farley,
13 Sally Summers, Robert Bauer,
14 Elyse Gardner, Laura Leigh)

15 February 19, 2013

16
17 Reno, Nevada
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22

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I N D E X

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EXHIBITS:

PLAINTIFF'S

FOR ID/RECEIVED

2- "Phantom Stallion" book

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1 RENO, NEVADA, FEBRUARY 19, 2013, 9:18 A.M.

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3 P R O C E E D I N G S

4
5 **TERRI FARLEY,**

6 called as a witness on behalf of the
7 Plaintiff, having been first duly sworn,
8 was examined and testified as follows:
9

10 **DIRECT EXAMINATION**

11 BY MR. COWAN:

12 Q. Good morning, Ms. Farley. How are you?

13 A. I'm good.

14 Q. I'm sorry. It's Mrs. Farley; Yes?

15 A. Whatever.

16 Q. Can you just -- well, let me ask you this. Do you
17 reside in Nevada?

18 A. I do.

19 Q. How long have you lived here?

20 A. Thirty-five years.

21 Q. Okay. And what is your occupation?

22 A. I am a full-time writer and journalist.

23 Q. Okay. What kind of stuff do you write?

24 A. I've written 36 books about wild horses; 24 of
25 those are fact-based fiction that take place in the Calico

1 Range in Nevada.

2 And I also write for -- nonfiction for a variety of
3 magazines, most recently Nevada Magazine.

4 Q. Okay. And can you tell the Court, please, how many
5 books authored by you that have been sold and where?

6 A. My -- I'm very fortunate that my publisher is
7 HarperCollins, and my books are in many countries around
8 the world. And they've sold well over two million copies.

9 Q. Okay. Are one of the books that you've sold in
10 front of you today?

11 A. Yes.

12 Q. And do you have a circulation number for this
13 particular book?

14 A. It's the best selling, so it's someplace in that
15 two million. It's leading the herd.

16 Q. All right. And is it published in languages other
17 than in English?

18 A. Yes. Most recently Hungarian.

19 Q. How many languages?

20 A. I think 27.

21 Q. All right. And so do you have knowledge, then,
22 that your books are distributed, in essence, worldwide?

23 A. Yes, they are.

24 Q. The information that you obtained, let's say, in
25 this book that's in front of you -- by the way, let me

1 ask. Is this your first book that was published?

2 A. This is my first book for young readers.

3 Q. Okay. Not the first book you published?

4 A. No.

5 Q. All right. First book for young readers for --
6 involving wild horses?

7 A. Yes.

8 Q. All right. And can you tell the Court the
9 background of how you became involved in writing this
10 book?

11 A. Well, as a child, I was involved in Wild Horse
12 Annie's letter-writing campaign. And I've always cared
13 about horses, wild or domestic.

14 And when I moved to Nevada, I met Wild Horse Annie,
15 very shortly before her death. And I thought that this
16 was a story that needed to be revitalized. Because when I
17 was a little girl, most of the action adventure stories
18 that had horses in them featured boys as the main
19 characters. I shifted to a sort of a female Indiana Jones
20 who is 13 years old for mine.

21 But because my background is in journalism and a
22 master's in journalism, I did want it to be fact based.
23 So I did a lot of research on the range and with BLM.

24 Q. Okay. And is this book a work of fiction?

25 A. It is.

1 Q. Okay. Is it based on events that you personally
2 observed?

3 A. Many of them.

4 Q. All right. And when you were making these
5 observations, can you give us a rough timeframe when you
6 were out there on the range?

7 A. I was out on the range on my own quite a bit in the
8 Calico area at the edge of the Black Rock Desert.

9 I also went out to two Calico complex roundups with
10 BLM as my guide. We would -- would you like me to go on
11 from there?

12 Q. Sure.

13 A. Okay.

14 Q. Go ahead.

15 A. We usually met at Brunos, the restaurant in
16 Gerlach, restaurant/coffee shop. And Maxine Shane and
17 Bryan Fuell and Tom Seley and various other people were
18 out there, and we met there. We had biscuits and gravy
19 and coffee and kind of -- they laid out the day for me.

20 And then I would ride in one of their trucks out to
21 the capture site outside of Gerlach.

22 Q. Okay. Let me just ask you a couple of -- when you
23 say "their trucks," you mean a BLM truck?

24 A. Yes.

25 Q. All right. And then the individuals that you

1 identified, like Tom Seley and others, can you tell us who
2 they are? Who they're related with?

3 A. Maxine Shane was the communications officer. Her
4 name is on most of the press releases you'll see from
5 the '90s into the mid 2000, like 2008, I think. And she
6 was very helpful to me.

7 And she hooked me up with some of these other
8 people. And I can't tell you exactly what their titles
9 are. I don't recall. I know that Bryan is still out in,
10 I think, Elko working. Tom may have retired. I'm not
11 sure.

12 Q. All right. So they're BLM employees?

13 A. Yeah. But they're all BLM employees. And now in
14 management positions.

15 Q. Can you tell the Court just your experience, in
16 terms of whether it was pleasant or difficult?

17 MR. PETERSEN: Objection, Your Honor.
18 Relevance. Your Honor, the plaintiff in this case needs
19 to show that there's been historical access to gathers and
20 that there's been public benefit. I don't see where this
21 line of questioning is going to either of those points.

22 THE COURT: All right. Would you rephrase your
23 question, Mr. Cowan, and then I'll rule on it.

24 MR. COWAN: Okay.

25

1 BY MR. COWAN:

2 Q. Was your -- well, let me back up with a preparatory
3 question; and that is, what timeframe are we talking about
4 during this meet?

5 A. 2001/2002.

6 Q. Okay. All right. And so during this period of
7 time, did you have any -- well, describe, again, for the
8 Court, if you will, whether or not this was a good or
9 pleasant experience for you as a member of the public.

10 MR. PETERSEN: Objection, Your Honor. Same
11 basis.

12 THE COURT: I appreciate your objection. But
13 I'll allow some limited discussion concerning why she was
14 there and what her personal enjoyment was because I think
15 it bears upon the issues related to public access.

16 MR. PETERSEN: Thank you, Your Honor.

17 THE WITNESS: The BLM was aware of my project.
18 They knew that I was writing both nonfiction and fiction
19 for a wide audience. And they allowed me access to them
20 verbally during our breakfast meetings.

21 And then when we went out to the range -- and all
22 of these gathers were on public lands. They didn't give
23 me an escort. They pretty much turned me loose with my
24 notebook and camera. And I was allowed to -- you know,
25 clearly if you know anything about horses, you don't stand

1 in the mouth of the trap. But, you know, they thought
2 that I would stay a reasonable distance from the action.
3 I did.

4 When there was trouble -- and there was trouble.
5 One -- the first drive there had been heavy snowfall.
6 When the helicopter got down low behind the horses, it
7 created a blizzard, and the horses scattered from the
8 mouth of the trap. When trouble happened, usually someone
9 from BLM would explain to me what was going on. And I
10 took notes.

11 Now, yes, it was an interesting experience. I
12 didn't approve of everything they were doing. They didn't
13 agree with my viewpoint. But it was very civil and
14 collegial, almost.

15 And at the time, the horses were brought in at a
16 trot. And my impression, and I've got it in my book, was
17 that, more than anything, these horses had been gathered
18 that morning, and they were looking back at the helicopter
19 with annoyance. They did not look panicked. They were
20 not at a dead run. They were not lathered up.

21 And so -- and then after -- I was there all day.
22 The horses also were not -- they were just put into the
23 trap and left there, and horses were added to that group
24 as the day went on. And the horses were not divided into
25 gender groups. They were just left there.

1 And I was told that they were often left there in
2 these pens on the range up to 48 hours. I can attest to
3 24 hours because I was there overnight in Gerlach, and the
4 horses were still out there.

5 Q. Okay. And so when you're able to describe some of
6 this stuff, like helicopter raising some snow up off the
7 ground, how far were you from the trap?

8 A. Not far at all. It varied because I was, let's
9 say, from ten feet to two blocks, two city blocks away,
10 depending on where I wanted to be, as long as I was not --
11 I don't recall ever being reprimanded for being in the
12 wrong place at the wrong time.

13 Q. Okay.

14 A. So my access was unlimited. I saw what happened to
15 the horses. And later -- I guess I'll contrast that, how
16 it is now.

17 But there was nothing to -- there were not trucks
18 in my way. There were not panels against the fences.
19 They were the green pipe fences that, you know, the horses
20 are herded into. And then the jute.

21 But, I mean, there was no obstruction of my view.
22 And if I wanted to get up higher, I was not reprimanded
23 for doing so.

24 Q. All right. And so your access that you described,
25 did it cause any animals to get hurt?

1 A. No.

2 Q. The access you described, did it cause any
3 employees to become injured or hurt?

4 A. No. I'm sure I would have been reprimanded, if
5 that were the case.

6 Q. The access that you described, did it cause any
7 members of the public to become injured or come in harm's
8 way?

9 A. No.

10 Q. All right. And did you appreciate the access that
11 you had during that time?

12 A. Absolutely. Although, like I said, BLM employees
13 and I had differing opinions on things, I was treated as a
14 professional. And, in fact, I dedicated my first book to
15 three of these BLM employees.

16 And I have to tell you that if I felt I had been --
17 my access had been blocked in a way that I was not seeing
18 the true story, or that I saw intentional abuse of the
19 horses, I would not, would not have dedicated my first
20 book to them by name.

21 Q. Okay. So in the book that is in front of you, the
22 one that you're --

23 MR. PETERSEN: Your Honor, with the Court's
24 indulgence, I'll reiterate my objection. This is
25 irrelevant testimony.

1 THE COURT: Well, let him finish his question,
2 and then I'll rule on the objection.

3 BY MR. COWAN:

4 Q. All right. Can you tell me the individuals that
5 you dedicated the book to that are actually mentioned in
6 the book? And I would refer you to the copyright page.

7 A. Yes. Many people helped turn Phantom Stallion from
8 a dream into a book. And then I list several people,
9 including Maxine Shane, Tom Seley, and Bryan Fuell. And I
10 say that they provided inspiration and expertise.

11 Q. And that's because you had -- was that because you
12 had reasonable access to the trap at the time?

13 A. Yes. I don't -- I wouldn't have been able to write
14 what I did -- well, the way I like to write, as I say,
15 fact-based fiction. I didn't create this out of my
16 imagination.

17 Q. Okay.

18 A. I was able to do it so that readers would see a
19 valid picture of what's going on.

20 Q. Okay.

21 THE COURT: Mr. Petersen, I anticipate that
22 your objection is to the admission of the book. It
23 strikes me that the -- Mrs. Farley's testimony indicates
24 that there's both fact and fiction, and there's
25 obviously -- I would assume that it's interlaced in that

1 fashion throughout the book.

2 And so I would be disinclined to admit it, if
3 that's what your proffer's going to be, Mr. Cowan, because
4 it strikes me that it's difficult to separate the fact
5 from the fiction. We have the witness' testimony here as
6 to what she did and didn't see and what her access was.

7 And she'll be subject to cross-examination. But
8 the book's not subject to cross-examination. And in light
9 of the fact that it contains some fictional material, I
10 would be disinclined to admit it.

11 If you can establish a greater foundation than
12 that, or, Mr. Peterson, if you want to add a greater
13 objection to it, I'll let you do that.

14 MR. PETERSEN: Yes, Your Honor. Well, thank
15 you for that.

16 I also would object to the continuing testimony
17 which, as far as I can tell, is attempting to establish a
18 comparison between how one person was treated in 2012,
19 which, of course, was eight years before the gather in
20 question.

21 Again, what the plaintiff has been tasked by the
22 Ninth Circuit to establish is the history of public
23 access, which, at least with regard to this individual,
24 has been established in the early 2000s, and whether or
25 not that was a public benefit.

1 Any sort of questioning relating to how close she
2 got to a particular horse, or anything like that, is
3 irrelevant to today's inquiry.

4 THE COURT: Well, my view is, is that the
5 extent of her access is a topic for today as it would be
6 relevant to the issue before the Court concerning access
7 questions. And I would allow her to testify to that.
8 Although she certainly has testified to a good significant
9 part of it.

10 But I'll just let you go forward, Mr. Cowan, with
11 what you wish.

12 And, Mr. Petersen, you can object as you wish.
13 Maybe we need some greater focus here as to what we're
14 objecting to and what the issue is.

15 BY MR. COWAN:

16 Q. Can you tell us, Ms. Farley, your impression of the
17 public benefit that this book has given the public or your
18 follow -- let me back up.

19 Do you have a following that buys these books?

20 A. I'm very fortunate to have a large following of
21 children, their parents, teachers, librarians.

22 And, you know, one of the reasons I feel
23 comfortable being here is because my readers worldwide
24 place a great value on the wild horses. Some of it is
25 what they've learned from my work; some of it, I think, is

1 almost intrinsic. The wild horse is an iconic symbol of
2 the American West.

3 So they are horrified that the people who are
4 supposed to be protecting these horses are not. They --

5 MR. PETERSEN: Objection, Your Honor.
6 Speculation.

7 THE COURT: Sustained. That's speculation --

8 THE WITNESS: Okay.

9 THE COURT: -- and it's not qualified.

10 THE WITNESS: The mail I get indicates that
11 they like it when --

12 MR. PETERSEN: Objection, Your Honor. Hearsay.

13 THE COURT: Same. Same ruling.

14 THE WITNESS: Okay.

15 BY MR. COWAN:

16 Q. What's your impression on that?

17 MR. PETERSEN: Objection, Your Honor.

18 THE COURT: I'll allow her to -- limited
19 testimony concerning her personal impression based on what
20 she's received.

21 THE WITNESS: Over a hundred e-mails a week
22 have told me that children and other members of the public
23 put a great -- have great interest in wild horses of the
24 west.

25 And I'm here because they're not all here. And I

1 am out there on the range because they can't all be out on
2 the range.

3 BY MR. COWAN:

4 Q. Has this book been distributed in Washoe County
5 schools?

6 A. Yes.

7 Q. What grades? If you know?

8 A. Usually third and fourth grade up.

9 Q. Okay. Have you given talks or -- as an author, to
10 children in Washoe County?

11 A. Nationwide and in Canada.

12 Q. Okay. Have you utilized this book here --

13 A. Yes.

14 Q. All right.

15 A. And the role of the BLM in the books -- there's 24
16 books -- changes as it goes on.

17 One thing I didn't mention is that one of the main
18 characters, the lead BLM character, is named after Bryan
19 Fuell. It -- she was something else. I can't remember
20 her name. And she turned into Brenna because of how much
21 he helped. And he had some -- some real-life changes I
22 made to the plot line on his recommendation.

23 Yeah, the books -- as I said, I'm very fortunate.
24 They're a lot of places.

25 Q. Okay.

1 MR. COWAN: Your Honor, I would offer it. I
2 would offer it on the fact that it's not being offered for
3 the truth of it but rather that it's a book that it's
4 almost a literally classic among children, beginning with
5 Washoe County and, as the witness has said, worldwide, who
6 sit and read this and understand that this is -- this is
7 an introduction to an iconic symbol of the American West,
8 the American wild horse.

9 It's for that purpose. Not for the truth of the
10 content of it. And we've established she's the author.

11 THE COURT: All right.

12 Mr. Petersen?

13 MR. PETERSEN: As long as the book's not being
14 entered for a factual basis, we don't have an objection.

15 THE COURT: And the Court would concur with
16 that. I will admit the book. But I will state expressly
17 that it is not -- and it is not being admitted for the
18 truth of any matter asserted within the book. It's being
19 admitted for purposes of relevancy to public interest,
20 which has certainly been established by Ms. Farley's
21 testimony.

22 (Plaintiff's Exhibit No. 2,
23 received into evidence.)

24 MR. COWAN: All right. Thank you, Your Honor.

25

1 BY MR. COWAN:

2 Q. Now, do you have -- have you been out to the range
3 to view wild horses other than the experience that you've
4 described to the Court involving Calico?

5 A. Yes.

6 Q. Okay.

7 A. I have -- most of my experience has been on the
8 Calico Range because that's where my books take place.
9 I've also viewed the Twin Peaks roundups.

10 Of late, in January of 2010, I went back for a
11 roundup in the Calico complex. And the only thing that
12 was the same was that we met at Bruno's. The public was
13 met by armed rangers. There -- we were not -- we did not
14 go inside the BLM.

15 There was a clipboard with names of people who were
16 allowed to be there. If your name was not on the
17 clipboard, even if you had driven all the way out to
18 Gerlach, there was great discussion about whether -- who
19 could stay and who had to go.

20 We were told that -- we were warned that we were to
21 stay in our private vehicles. We would convoy out to
22 private land where the horses were gathered. This was
23 near the Soldier Meadows Ranch.

24 And there were white, I assume, BLM vehicles,
25 unmarked vehicles, that were interspersed through the

1 convoy of cars. And any time the cars paused, the last
2 white trucks at the end of the line parked facing each
3 other at the end, so that no one could backtrack. No one
4 could get off the road.

5 We were at all times -- before we even got in our
6 personal cars to go out to the gather site, the BLM
7 staffer in charge was in constant radio contact with the
8 independent contractors. And I was standing close enough
9 that I could tell he was getting his directions from the
10 independent contractor, where we could go and when we
11 could go, when we had to move, stop, *et cetera*.

12 In addition, there were two helicopters rather than
13 the one. And this is an area of rural Nevada that I have
14 ridden on horseback. I spent a week a few years back,
15 actually in 2008, I believe, a week at the Soldier Meadows
16 Ranch. And I had ridden that area.

17 That's one reason I was very frightened about this
18 roundup. The terrain is terrible. But that's not what
19 I'm here to testify about.

20 The choppers brought the horses in. There were two
21 instead of one. They were brought in at a full gallop.
22 The horses were lathered. Their mouths were open. Their
23 eyes were wide.

24 Even if you didn't know about horses, the red
25 nostrils and the clots of foam flying from their mouths,

1 the falling on the ice, it was a very high-stress
2 situation.

3 MR. PETERSEN: Your Honor, objection. This,
4 again, goes to relevance. But in this case it's not about
5 a difference of the number or amount of access that a
6 person was given, but rather the witness is testifying to
7 the specifics of a horse gather that we're not here to
8 deliberate on.

9 THE COURT: Mr. Cowan?

10 MR. COWAN: Well, if it's a historical access,
11 the Ninth Circuit didn't say that we were limited here
12 today just to Silver King, but to historical access.
13 She's talking about her observations at another roundup.

14 THE COURT: I'll allow the testimony to stand
15 where it is.

16 But I would caution you, Mr. Cowan, this is a
17 distinct roundup to what we have before the Court.
18 There's been no nexus between that one and this one. And
19 so until there is, I would consider it to be inappropriate
20 to go into that.

21 BY MR. COWAN:

22 Q. Well, then let me ask you this, then, ma'am.

23 Were there some of the same individuals, management
24 and persons from the BLM, present in your later voyage out
25 to the roundups as who you met at prior roundups?

1 MR. PETERSEN: Your Honor, same objection.

2 THE COURT: Sustained.

3 MR. COWAN: I'm sorry. Was that sustained,
4 Your Honor?

5 THE COURT: It was sustained.

6 MR. COWAN: Okay. Thanks.

7 BY MR. COWAN:

8 Q. So you had an impression over time, based on your
9 attendance at other roundups, that access had changed?

10 A. Access had changed. And speaking as somebody with
11 journalism background, I would say the presence of armed
12 guards, who made it very clear we were under observation,
13 had a chilling effect on the journalists who were there,
14 and certainly a -- from the people I talked with, a
15 frightening effect on some of the members of the public,
16 especially some of the older couples that were there.

17 Q. Okay. And so as a journalist who has written books
18 on this very subject, did you have an impression as to any
19 reason why your access had changed over time?

20 A. I asked. Because I thought that was part of the
21 story. And I wasn't given anything specific. They said
22 that there had been a terrorist threat --

23 MR. PETERSEN: Objection, Your Honor. Hearsay.

24 THE COURT: Sustained.

25 MR. COWAN: Okay.

1 BY MR. COWAN:

2 Q. Any other information regarding -- well, let me ask
3 this.

4 Based on what you saw at other roundups, did you
5 report what you had seen to the public?

6 A. Yes.

7 Q. Okay. How so?

8 A. I -- are you asking me about the past roundups or
9 the comparison of the two?

10 Q. The past roundups and also comparison.

11 A. Yeah. I reported fully on both of them. And, in
12 turn, I was interviewed by the press as well. And, you
13 know, but I was mainly there to write about it. And it
14 had changed seriously.

15 Q. And did you receive feedback from those -- the
16 public that you reported to or --

17 A. Yes.

18 Q. Okay. And could you describe for us, just in
19 general, what some of the feedback was?

20 A. I would say for the most part, because my earlier
21 books had been fairly positive, I mean, one of the main
22 characters is a manager of a -- a woman who is the manager
23 of a facility much like Palomino Valley, because I had
24 been fairly positive or at least even-handed about the
25 BLM, when I started writing about the real BLM and what

1 was going on on the range, there was a certain amount of
2 confusion from my readers.

3 Q. Okay.

4 A. As there was for me.

5 Q. All right. Did you -- well, when you looked back
6 on your conduct, your personal conduct, and you take a
7 personal inventory of how you -- how you were -- how you
8 presented yourself out there, could you put your finger on
9 any issue regarding your personality, or otherwise, that
10 you could conclude caused a change in their treatment of
11 you?

12 A. No.

13 Q. Okay. Was it your impression that there was a
14 general attitude change towards those who came out to look
15 at horses?

16 A. Yes. We weren't allowed anyplace near the corrals.
17 And, again, this was all control -- before the BLM
18 staffers had been in touch with us, during the second
19 roundups at Calico and then at Twin Peaks, it seemed that
20 BLM was the filter for orders from the independent
21 contractors.

22 Q. Okay. And did that change?

23 A. That was a huge change.

24 Q. Okay. Have you been to holding facilities where
25 they ship horses?

1 A. Yes.

2 Q. Your -- could you describe for the Court what your
3 access was, historically, at holding facilities and where
4 they were?

5 A. Palomino Valley has always been pretty easy to work
6 with. John Neill, you know, is -- when he was there, was
7 pretty easy to work with.

8 I had one really unpleasant experience at
9 Lichfield, during the Twin Peaks -- just before the Twin
10 Peaks roundup. I adopted two horses from the Calico
11 roundup, and I had taken them to a sanctuary in
12 Shingletown by Mt. Shasta. And I was driving back on
13 August 10th, 2010, which was the date that the Twin Peaks
14 roundup was supposed to start.

15 What I didn't know was that some legal action
16 delayed it for a day. I did not know that. I was making
17 arrangements to move the two Calico mustangs. And since
18 you drive practically right by, I mean, you're, like, a
19 couple miles from Lichfield when you go through
20 Susanville, I decided to see if the facility was open and
21 to go in and see the horses they brought in.

22 I drove down there. The gates to Lichfield were
23 wide open. Nothing was happening. I didn't see a soul,
24 and I didn't see horses. So I did one lap in the public
25 area, turned around, and headed on toward home.

1 And I was about two or three miles down the road
2 when two white trucks with flashing lights pulled me over.
3 Two armed men, which I believe were rangers, BLM
4 rangers --

5 MR. PETERSEN: Objection, Your Honor.
6 Speculation.

7 THE WITNESS: Well, they identified themselves
8 as BLM.

9 THE COURT: All right. Go ahead.

10 THE WITNESS: One came to the driver's side
11 window. One stood on the other side of my car looking in
12 my windows into my back seat. They requested
13 identification.

14 I asked why I had been pulled over. And they said
15 because I had been in the Lichfield area. I told them the
16 gates were open; I was under the impression a roundup had
17 taken place; and I wanted to see the horses.

18 They said the roundup was cancelled.

19 And I said, "Last I heard it was supposed to start
20 today."

21 They wanted to know why I was there, what right I
22 had to be there.

23 And finally for, I guess, credentials I pulled out
24 the two red tags that had been around my horses' neck and
25 said, "I just adopted two Calico horses. I'm interested

1 in wild horses. I was just checking to see -- to look at
2 the horses."

3 And they let me go. But I have never been pulled
4 over and questioned like that for no reason. I hadn't
5 broken any rules. And they treated me like -- well,
6 again, let's go back to the chilling effect.

7 So that made me have a lot of interest in the Twin
8 Peaks roundup. And I came back several times after that.

9 Q. Okay. Did you understand Lichfield was open to the
10 public at the time?

11 A. Yes. The gates were open. And most wild horse
12 facilities, like Palomino Valley, like Lichfield, are open
13 to the public. And there's usually someone in the office
14 that you can talk with if you do have questions.

15 And, again, because I thought the roundup was
16 taking place, I expected a lot of activity.

17 Q. Okay. Did you do anything while you were at
18 Lichfield to cause the rangers to come after you, that
19 you're aware of?

20 A. Not that I'm aware of.

21 Q. Did you get out of your car?

22 A. No.

23 Q. When you were in your car, were you driving in
24 areas that the public was entitled to be?

25 A. It appeared so to me.

1 Q. All right. Did you report this experience to the
2 public, your viewers, your listeners?

3 A. Not for a while. And the reason I didn't is
4 because I was afraid that my access would be restricted to
5 the roundups.

6 Q. Wait a minute. Are you saying that because of how
7 you're being treated that you're concerned that your
8 access will be further limited if you report what you
9 actually see --

10 MR. PETERSEN: Objection --

11 BY MR. COWAN:

12 Q. -- as a journalist?

13 MR. PETERSEN: -- leading.

14 THE COURT: Sustained.

15 BY MR. COWAN:

16 Q. Do you have an impression that your access would be
17 limited, for any reason, based on how you were treated?

18 A. Yes. Especially since most of the roundups now are
19 held on private land. So there's a very easy, convenient
20 way to block reporters because private land you're
21 trespassing.

22 Q. Okay. I just want to understand this.

23 In other words, are you saying that where the traps
24 are located, are they on private land?

25 A. Quite often.

1 Q. All right. But horses are, at least as far as you
2 can know, you can tell me if I'm right or wrong, they're
3 coming off BLM public lands into the private land traps?

4 A. They are herded -- my observation -- and, you know,
5 I don't have a GPS in my brain. But what I've been told
6 by BLM communications people, they're coming off private
7 land. They are herded into the jute trap, the mouth of
8 the traps.

9 And those traps are on private land often. Now,
10 it's not a hundred percent, but it's often. And then the
11 horses are often held in holding pens that are also on
12 private land. So access is restricted by the property
13 owners.

14 Q. Okay. Did you have any other discussions --

15 THE COURT: Mr. Cowan, I'm going to ask if
16 you'll move the microphone a little closer to you because
17 some of our recording equipment is not picking it up
18 completely.

19 BY MR. COWAN:

20 Q. Okay. Do you recall any other discussions or
21 comments with the BLM rangers that had pulled you over at
22 Lichfield?

23 A. They told me -- and when I asked -- just a second.
24 I've got a quote. One of the -- the ranger who was
25 speaking to me on the driver's side explained that they

1 had been expecting trouble at Lichfield. But he wouldn't
2 be more specific.

3 Q. Okay. And trouble is not your name; correct?

4 MR. PETERSEN: Objection.

5 THE COURT: Sustained.

6 MR. COWAN: I will withdraw that.

7 BY MR. COWAN:

8 Q. Did you feel intimidated when you were out at --
9 out there?

10 A. I was out in the middle of -- there's kind of an
11 open area between Susanville and the next town. And it --
12 yeah, I did. It's -- it's intimidating. I'm not used to
13 being approached by armed men and questioned.

14 Q. You're a woman by yourself; yes?

15 A. There was a photographer with me.

16 Q. Okay. And is it a remote area?

17 A. Somewhat. It's rural.

18 Q. Okay.

19 Just a moment, Your Honor.

20 Have you had other experiences with roundups and
21 the BLM or holding facilities and the BLM?

22 A. I've been to several -- probably seven or eight
23 roundups, mostly Calico and then Twin Peaks. So those are
24 the two areas where I've been most often and where I've
25 dealt with BLM on a -- during the gathers.

1 I mean, I've had phone communication with -- when
2 Maxine Shane was in communication --

3 MR. PETERSEN: Objection, Your Honor.
4 Relevance.

5 THE COURT: That would need to be identified as
6 to time and place before it would be relevant so --

7 MR. COWAN: Okay.

8 BY MR. COWAN:

9 Q. So your conversations with Maxine Shane, when did
10 this occur?

11 A. And Jolin. They continued -- they started probably
12 in late 1990s and pretty cordial through 2007, '8.

13 After Maxine retired, things got tense. And I
14 got -- you know, as things changed within BLM and public
15 access, Maxine retired. And I have been in touch with
16 Jolin -- and I can't remember her last name. Is it Orley?
17 Something like that.

18 But the brainstorming, the what if this happened in
19 a story, what would BLM really do, that pretty much was
20 cut off. It become a very -- I had to call for specific
21 questions for specific nonfiction publications.

22 Q. Okay. And then other than at Lichfield, do you
23 have experiences elsewhere at horse -- BLM horse holding
24 facilities?

25 A. Just Palomino Valley and -- I think just Palomino

1 Valley and Lichfield.

2 Q. Had you ever been to Broken Arrow?

3 A. Oh, of course. Sorry. I wasn't considering --
4 that's not a -- well, that's one of those that's on
5 private land. And that's another one of those things that
6 changed as time went on.

7 Broken Arrow is the facility where they kept the
8 Calico horses and where I first saw the two horses that I
9 ended up adopting. A 10-year-old mare I adopted was in a
10 corral for young stallions. And I thought she was a
11 stallion and hadn't been gelded yet. She was later moved.

12 But, yes, I spent -- I don't know how many times I
13 went out to Broken Arrow. Probably 10, 12. A lot of
14 times. A lot of times. And originally we were allowed to
15 walk around. Then it became very restricted.

16 And now on the few public viewing days that they
17 have, the public is confined to a little truck, a little
18 trolley car that goes around. And you go where you're
19 allowed to go.

20 Q. Okay. And so what was the benefit to you, as a
21 member of the public, in visiting Broken Arrow?

22 A. Well, it was huge. For one thing I would like to
23 say that all BLM employees are angels, and for the most
24 part, most BLM people that I've dealt with have had some
25 pride in their jobs.

1 But the private facilities are run by private
2 people. They're private contractors. I mean, by
3 definition they have a contract with the government, and
4 they get paid. They are not -- I mean, that's -- that's
5 by definition what they are.

6 Those of us who were watching the horses, who had
7 seen them captured, I think we're a little more watchful.
8 We saw --

9 MR. PETERSEN: Objection, Your Honor.

10 THE COURT: Sustained.

11 You can testify concerning your personal reactions
12 and how you treated things and the reasons why. But as to
13 others, you should not be testifying --

14 THE WITNESS: All right. Thank you.

15 One of the things we were very careful about doing
16 while we were out there was looking for individual
17 horse --

18 MR. PETERSEN: Objection, Your Honor. She's
19 referring --

20 THE WITNESS: Okay.

21 MR. PETERSEN: -- to the "we."

22 THE COURT: Sustained.

23 THE WITNESS: It's the royal we. I'm sorry.

24 THE COURT: All right.

25 THE WITNESS: One of the things I did was take

1 notes and document horses we had -- I had seen with
2 injuries. I wrote down if they were in medical pens, if
3 the injuries looked like they were improving, if those
4 were in crowded areas, if -- you know, the horse that I
5 ended up adopting, once I established that she was a mare,
6 making sure she was moved from a group of stallions and
7 just trying to talk with -- on the day that the public --
8 days that the public were allowed there, there was usually
9 a BLM representative.

10 We were allowed to talk to that representative and
11 strongly discouraged from talking with anyone -- with the
12 owner of the facility or the people who were working at
13 the facility. But we tried to get -- I tried to get
14 information from John Neill or Dean Bolstad, whoever was
15 out there, about individual horses that I felt were in
16 distress.

17 BY MR. COWAN:

18 Q. As a journalist, did you report to your
19 constituents, the public, about your observations?

20 A. Yes.

21 Q. Okay. And as a member of the public, did you
22 benefit, as well, by your observations there?

23 A. I did. Because my eyes were opened -- not in a
24 good way -- to how much of a business this had become. It
25 had gone from BLM acting -- maybe not agreeing with me,

1 but acting in what I thought was stewardship of the land
2 and the horses, to something like starting on the range a
3 factory processing these horses.

4 They would be galloped in, not walked in, not
5 trotted in, not loped in. They were at a full panicked
6 gallop. They're separated out of --

7 MR. PETERSEN: Objection, Your Honor. This has
8 nothing to do with public access.

9 MR. COWAN: Your Honor, it's her impressions
10 about how she benefits. She's making a distinction
11 between what she was allowed to see, in general terms,
12 back historically --

13 THE COURT: Overruled. I'll allow the
14 testimony.

15 THE WITNESS: It just showed me how much things
16 had changed. The horses were processed. The mares were
17 separated from foals. The stallions were separated from
18 their bands. It was cacophonous with the horses, you
19 know, trying to get back into their family groups.

20 And when I saw where they ended up, often the
21 conditions were not good. These are -- you know, it's a
22 cliché, but these are my tax dollars paying for what's
23 being done to these animals. And I have a right to see
24 what's happening. What I saw was appalling.

25

1 BY MR. COWAN:

2 Q. Okay.

3 A. And a huge change.

4 Q. And so additional benefits to you, I just want to
5 be clear, did you say that as your result of observing
6 horses in -- at the -- at Broken Arrow, you ended up
7 adopting a horse or two from that?

8 A. Yes.

9 Q. Personally?

10 A. Yes.

11 Q. And so you're aware of an adoption program that the
12 BLM has, and you went through that process?

13 A. Absolutely. One is a sale authority mare, the
14 older horse I mentioned. And that means she could have
15 been sold without limitation.

16 And one was a young sorrel that I adopted.

17 Q. Okay. And then do you have some riding experience
18 as well?

19 A. I can usually stay on. That's about it.

20 Q. Have we discussed the extent of your access to wild
21 horse roundups and the extent of your access to holding
22 facilities? Yes?

23 A. Yes.

24 Q. Okay. There's one more thing. And that is a place
25 they call temporary holding after they bring wild horses

1 in.

2 Do you have experience with observations of that as
3 well?

4 A. I do.

5 Q. Could you just tell the Court what that is?

6 A. Temporary holding is usually -- the horses are --
7 on the range, they are funneled into a chute, like a
8 channel. They are channeled into this, into corrals,
9 where they are divided into gender groups. The foals are
10 all together. But the mares are together, the stallions
11 are together.

12 And then they move those horses -- like I said
13 before, they used to keep them in family groups and let
14 them settle down while the horses are hot off the range.
15 I mean, their nostrils are still red and they're lathered.
16 They are herded into metal trailers. And then they are
17 taken, in my experience, generally, to private ranches or
18 private ranch lands where there are pens set up for the
19 horses. Sometimes you're allowed in; sometimes you're
20 not.

21 One of the worst ones I saw was from the Twin Peaks
22 roundup. And we were given -- I'm sorry. I was standing
23 on, like, a viewing platform, probably twice as long as
24 this -- this testifying box, with other members of the
25 public and could see into the corrals somewhat. Mainly I

1 could see the stallion corrals where stallions were doing
2 the only thing they knew how to do, they -- without their
3 families, they were fighting. Horses were going -- they
4 were so crowded, horses were going down.

5 The problem was there were panels on the side of
6 that so you couldn't identify individual horses. And we
7 couldn't -- I couldn't get close enough to see the feet of
8 the horses. I mean, you could see a brown horse. And as
9 my husband likes to say, all horses are brown. But you
10 could see a brown horse. You couldn't see markings.

11 So if I wanted to check on a horse later, as I did
12 at Broken Arrow, it was almost impossible to write down
13 distinguishing marks. So those horses could disappear.

14 Q. Okay. And I'm just going to go back to your having
15 adopted and your familiarity with the adoption program
16 that BLM has.

17 A. Uh-huh.

18 Q. Do you believe others -- well, let me back up.
19 Were you aware of others, friends of yours or
20 acquaintances, who adopted horses based on their
21 experience in seeing or viewing facilities?

22 A. Yes. Most people pick their horses that way.
23 There is an Internet adoption. In fact, I had to bid on
24 my horses on the Internet, like eBay.

25 But for the most part, in my experience, people

1 like to see the horse.

2 Q. So the adoption process, is that a benefit not just
3 to the public but to the BLM's program as well?

4 A. Absolutely.

5 MR. COWAN: Thank you, Your Honor.

6 THE COURT: All right.

7 MR. COWAN: Thank you, ma'am.

8 THE COURT: Cross-examination?

9 MR. PETERSEN: Thank you, Your Honor.

10

11 **CROSS-EXAMINATION**

12 BY MR. PETERSEN:

13 Q. Thank you, Mrs. Farley. Just a few questions for
14 you.

15 You had made a statement, and it was hard for me to
16 track of which gather you were talking about. But you
17 said that -- the gather you were talking about, the
18 terrain was terrible.

19 A. What was terrible?

20 Q. The terrain --

21 A. Yes.

22 Q. -- was terrible?

23 A. That was Calico.

24 Q. Calico. In what year, do you recall?

25 A. This was 2010, in January.

1 Q. And was that -- the terrain was --

2 A. January 10th.

3 Q. And was the terrain terrible for the entire gather
4 or just at the one trap you were viewing?

5 A. Well, the terrain that they were bringing horses in
6 at that point had -- was a -- I mean, they do move the
7 traps around. The trap was in that area for some time.

8 And what I mean by terrible is I had ridden a
9 saddle horse near this -- well, down this area, and there
10 was shale the size of dinner plates which had been snowed
11 on, thawed, refrozen, and there was snow over it. And
12 horses were brought down at a gallop.

13 Q. Have you had at gathers, either this gather or a
14 different gather, different trap site, where the terrain
15 has been not terrible, or even decent?

16 A. Yes.

17 Q. Thank you. You stated that most of the roundups
18 are on private land. What data were you basing that
19 statement on?

20 A. That the traps -- I'm talking about the horses
21 are --

22 Q. Most of the roundups?

23 A. No. The gathers, as I said, took place -- I was
24 told by BLM that they were brought in from public lands,
25 then the traps and the holding pens were on private land.

1 I base that on the fact that we were told -- that I
2 was told I could not go over there without the property
3 owner's permission because I would be trespassing. I was
4 no longer on --

5 Q. Are you referring to one gather or most of the
6 gathers that BLM does?

7 A. This was Calico in 2010. And this was Twin
8 Peaks -- okay. So January of 2010, Calico. August 10th,
9 2010, Twin Peaks. And that was for the holding facility.
10 That was on private land.

11 Q. And is that experience your basis for the statement
12 that most of the traps that BLM uses are on private land?

13 A. In my experience, since we're limiting it to my
14 experience, yes.

15 Q. Okay. So just two or three examples out of 50,
16 100, 150? But most --

17 A. Out of the seven or eight roundups that I've been
18 to, it's become increasingly common to put them on private
19 land, yes. At least that's what I'm informed by BLM.
20 Again, I don't have a GPS in my head.

21 Q. Okay. Were you at Silver King gather?

22 A. At what?

23 Q. Were you at the Silver King gather that --

24 A. No, I was not.

25 Q. -- took place in 2010?

1 A. No.

2 MR. PETERSEN: Okay. Thank you.

3 THE COURT: Mr. Cowan, redirect?

4 MR. COWAN: No, Your Honor. No questions.

5 THE COURT: All right.

6 Mrs. Farley, you may step down. Thank you.

7 THE WITNESS: Thank you very much.

8 THE COURT: This probably is a good time to
9 take an early morning break. Let's reconvene -- I'm
10 looking at the clock in the back of the courtroom. We'll
11 reconvene at 10:35.

12 THE CLERK: Please rise.

13 (A recess was taken from
14 10:20 a.m. until 10:38 a.m.)

15 THE COURT: Have a seat, please.

16 Let's see. Next witness, Mr. Cowan.

17 MR. COWAN: Thank you, Your Honor. I'd like to
18 call, please, Ms. Sally Summers.

19

20 **SALLY SUMMERS,**

21 called as a witness on behalf of the
22 Plaintiff, having been first duly sworn,
23 was examined and testified as follows:

24

25 THE WITNESS: Yes, I do.

1 THE CLERK: Please be seated.

2 Please state your name for the record, and spell
3 your last name for the record.

4 THE WITNESS: Okay. Sally, S-a-l-l-y, Summers,
5 S-u-m-m-e-r-s.

6 THE CLERK: And please tell us your city and
7 state of residence.

8 THE WITNESS: Washoe Valley, Nevada.

9 THE CLERK: Thank you.

10

11 **DIRECT EXAMINATION**

12 BY MR. COWAN:

13 Q. Good morning, ma'am.

14 Can you tell us how long you've lived -- you're
15 from Nevada?

16 A. Yes.

17 Q. How long have you lived in Nevada?

18 A. Forty-five years.

19 Q. Can you just tell us about yourself, your
20 background, please?

21 A. In Nevada, in 1971, I adopted my first Mustang and
22 have been actively involved most of my life.

23 Had a career in broadcasting. And every
24 opportunity I had to help the wild ones, I was on it.

25 Went through UNR in nonprofit certification and

1 grant writing and everything that was needed for a career
2 change in philanthropy and founded Horse Power, a
3 nonprofit organization that has close to 5,000 license
4 plates on the streets of Nevada.

5 Q. Okay. So are we talking about those license plates
6 that -- like, the rodeo license plate, there's a license
7 plate that depicts wild horses?

8 A. And burros.

9 Q. I'm sorry. Wild horses and --

10 A. Don't forget the burros.

11 Q. Yes?

12 A. Yes.

13 Q. Okay. And how is it that you're involved in that,
14 just from a general standpoint? Please tell the Court.

15 A. Well, at this point I'm a private contractor as
16 well. I'm also on the board and am the founder. So
17 basically I do the windows and the bathrooms.

18 Q. Okay. But how many licensed -- how many wild horse
19 license plates are currently issued by the State of
20 Nevada, if you know?

21 A. It's close to 5,000 if not over 5,000 at this
22 point.

23 Q. Okay. And what is your role in -- with Horse
24 Power?

25 A. Oh, I've got many roles. One is being accountable

1 to the 5,000 people that have those license plates, to be
2 sure that the laws are upheld to protect the wild horses
3 and burros.

4 We take people out on the range to introduce them
5 to how magnificent they are on the range, to document the
6 conditions of the range, water and feed. Sometimes to
7 take them during the roundup. And then the sad part is
8 taking them back afterwards.

9 Q. Okay. When you say sad, what do you mean?

10 A. It's silent.

11 Q. All right.

12 A. Life is gone.

13 Q. But sticking back to the wild horse -- the Horse
14 Power issue, is there a philanthropic purpose or a
15 designation of funds that come from the sale of those
16 license plates?

17 A. Yes. Our basic mission is to financially aid those
18 organizations, groups, or individuals that rescue wild
19 horses, burros, second-chance horses, and mules. We take
20 care of all of equine in Nevada as much as we can.

21 Q. Okay. So does it all start with the access to wild
22 horses?

23 A. Yes, it does; and actually have been able to
24 suggest some adoptions through access.

25 Q. Okay. Well, that was my next question; that is, do

1 you help with adopting horses that are removed from public
2 lands by the BLM?

3 A. Yes.

4 Q. Tell us about that, please.

5 A. We have a list of what some people are looking for.
6 And if it's viewed out on the range, and then later if I'm
7 able to view that they're in good shape and have good
8 legs, I'll recommend the adoption of that animal.

9 Sometimes it happens, and sometimes it doesn't.

10 Then they will go out to the facility and view the
11 animal. And we help transport as well.

12 Q. Okay. And just describe -- when you say you help
13 transport, just tell me what you mean.

14 A. Well, we were down at the Tonopah site adoption and
15 transported four animals to various places that were
16 adopted.

17 We've taken people out to Palomino Valley that had
18 pre-chosen some horses and picked up those horses for them
19 and delivered them.

20 And we help rescue wild horses that have been
21 adopted and, unfortunately, need to be removed from that
22 particular facility to a better facility.

23 Q. Okay. And the cost of the transportation, that's
24 not saddled by the person accepting the adopted horse?

25 A. No. Horse Power provides the gas for the

1 transportation and the use of the stock trailer. The
2 truck is -- what's left of it is mine.

3 Q. All right. Okay. Have you personally adopted
4 horses?

5 A. Yes, I have. The first one I adopted many, many
6 years ago from Palomino Valley went out to -- in fact, we
7 were collecting the signatures for the license plate at
8 the time. And she chose me.

9 And the next one I adopted was a little burro that
10 had been gathered from the Wheeler Pass area in Las Vegas.

11 And then I adopted two out of Broken Arrow, a birth
12 control mare and her colt.

13 And then last, but not least, was a curly colt from
14 Palomino Valley.

15 Q. Okay. And do you have an estimate of how many
16 horses you have helped adopt out from the BLM?

17 A. I'd say roughly 10, 10 or 12, maybe a dozen.

18 Q. All right.

19 A. There might be more that I don't know about.

20 Q. All right. Now, have you attended BLM roundups?

21 A. Yes, I did.

22 Q. Okay. Can you tell the Court your earliest venture
23 into a BLM roundup?

24 A. Yes. And I was reluctant to go because of what I
25 had heard.

1 The first one was in Calico. And it became
2 necessary for us to start bringing people out to the range
3 that were unable to get there otherwise. So I went to the
4 Calico range.

5 And I also was a correctional officer, and I was
6 really -- I felt like I was being treated like a criminal,
7 with armed guards at the front and armed guards at the
8 back to escort us out. And that was just amazing to me.

9 And there was no reason for it. Nobody that I had
10 known had stepped out of line. We were situated in an
11 area that was -- I was able to view over the top of the
12 collection, the end of the collection. We were able to
13 hear the wranglers talking. That's how close we were.

14 Q. You mean able to hear them verbally, without a
15 radio?

16 A. Uh-huh. Yes.

17 Q. All right. And so tell the Court, please, your
18 observations of what you could see and view with respect
19 to the roundup, the horses, the trap, *et cetera*?

20 A. Well --

21 THE COURT: Do we have a date and time of this?

22 MR. COWAN: Yes. Let me back up.

23 BY MR. COWAN:

24 Q. Can you tell us when this -- the roundup that we're
25 talking about, this Calico --

1 A. That was December of 2010.

2 Q. All right. So can you tell us your experience
3 there?

4 A. Of the -- being somebody that rides and has
5 animals, I was looking at the lava rock, knowing how badly
6 that would cut anything I rode out there.

7 And we were situated on the hill looking down.
8 Normally in an area like that, you would hear the
9 helicopter, the noise bouncing off the canyon walls, and I
10 was unable to hear that at all.

11 And the horses appeared, like, out of nowhere, and
12 then the helicopter was right on top of them. They were
13 shuffled into the trap. They remained in the chutes for a
14 short time and then loaded onto the stock trailers. And
15 you could see the steam rising off these horses in the
16 stock trailers.

17 Q. Steam from what?

18 A. The horses -- well, they were lathered up. They
19 were sweating. And it was extremely cold.

20 Q. Okay. And so let's stick on topic, and let's talk
21 about what you could see, visualize, that type -- your
22 access, your visual observations, what you could --

23 A. Oh, yes. Well, I could see the use of the whips
24 with the plastic bags on the ends, that they were
25 utilizing them as well as the hot shots.

1 And a number of the horses were -- as they were
2 moving them through the chutes, trapped in the gates.

3 Q. Okay.

4 A. A leg or, you know, a neck, or something like that.

5 Q. Okay. So based on this observation at this time
6 during this roundup, are you able to identify horses by
7 particular markings?

8 A. Yes.

9 Q. All right. And when I refer to a roundup, that's
10 not just one day, that's a series of days?

11 A. It's a series -- I went back to Calico a number of
12 times.

13 Q. All right. At that same time?

14 A. Yeah. For the same roundup.

15 Q. All right. All right. Now, have you been to other
16 roundups?

17 A. Yes, I have. I have been up to the High Rock
18 roundup, which was a terrain that was a very soft and
19 sandy area. However, coming out of the rocks there
20 were -- there was a great deal of black obsidian up there,
21 which is what was used for arrows.

22 THE COURT: Time and date on that?

23 THE WITNESS: That would have been 2011 to -- I
24 actually went up there a couple of times. It was either
25 in June or in the fall.

1 BY MR. COWAN:

2 Q. All right. How many roundups have you been to?

3 A. About eight.

4 Q. All right. In the history -- your experience out
5 there, has your access to viewing these roundups changed
6 over time?

7 A. Oh, yeah. To the point where it's why even bother
8 to go. And it's -- you know, when I'm going out with
9 Horse Power's intent and their money, I have to be frugal.
10 And if we can't view the horses and see what's going on
11 and I can't recommend to people that are looking for
12 adoption, there's no sense in going.

13 Q. Okay. Let's just talk about some facts about how
14 it's changed, okay? Just a few specifics, not much, if
15 you could for the Court, please.

16 A. Well, prior -- well, during the Calico, it seemed
17 that there were steps that were taken. And we were held
18 back more and more -- further away from the traps, away
19 from the temporary holding.

20 Q. As Calico was ongoing?

21 A. Yes.

22 Q. Okay. And just one more question there.

23 How long was the Calico roundup? How long did it
24 last, if you know?

25 A. I think it ended in February.

1 Q. Roughly a couple --

2 A. It started in December.

3 Q. Roughly a couple months?

4 A. Yes.

5 Q. All right. So I'm sorry. I interrupted.

6 A. The first time out, after the horses were
7 collected, we were taken over to temporary holding. And
8 we were able to view the horses. We were able to, you
9 know, push the hay towards them without startling them and
10 have access -- I was -- I have a particular -- I love the
11 curly horse, so I was looking for a number of curlies down
12 there.

13 And, anyway, we were able to be that close, that we
14 could observe them and hear them breathing.

15 Q. Okay. That close, do you have an estimate
16 distance-wise?

17 A. Well --

18 Q. A reasonable distance?

19 A. Three feet, four feet at the -- you know, we were
20 right on -- we were able to take pictures right there.

21 Q. All right.

22 A. And then the temporary holding that, at a later
23 date, was similar distance.

24 Q. All right. And then was there any kind of fencing
25 involved or in the way of your viewing horses in temporary

1 holding?

2 A. No. We were able to -- at that time, we were able
3 to see what was going on and if they had cuts. There were
4 a number of foals that were limping. And we were
5 concerned about them. Those were the ones that died
6 later.

7 Q. All right. But you were at least able to see what
8 was going on; yes?

9 A. Yes.

10 Q. All right. And then, as you said, as the Calico
11 roundup progressed, things became tighter; yes?

12 A. Yes.

13 Q. And I'm sorry if I didn't use the right words.

14 But did you have an impression -- do you have a
15 personal impression as to what caused that change?

16 A. Well, I was told the same thing everybody else was,
17 that there had been terrorist threats over the phone.

18 And I asked, "Well, where did they come from?
19 Where are they?" And --

20 MR. PETERSEN: Objection --

21 THE WITNESS: -- they said --

22 MR. PETERSEN: -- hearsay.

23 THE WITNESS: -- "Washington, DC."

24 THE COURT: Wait a minute.

25 THE WITNESS: And I --

1 THE COURT: Wait.

2 THE WITNESS: Sorry, sir.

3 THE COURT: We have an objection.

4 Mr. Petersen, do you want to explain your
5 objection.

6 MR. PETERSEN: Yes, Your Honor. She's
7 referring to what someone allegedly told her over the
8 phone, not her own statement or own impressions.

9 THE WITNESS: That's not correct, sir.

10 MR. PETERSEN: Then I misunderstood the
11 witness.

12 THE COURT: All right. I'll allow her to
13 explain what she heard and why she was acting on that,
14 only for the purpose of why she was acting on that.

15 THE WITNESS: It was a BLM employee that told
16 us that. And me that.

17 BY MR. COWAN:

18 Q. All right. Have you -- now, let's make a
19 comparison to, let's say, more recent roundups, like
20 today. What's -- what's your access now?

21 A. It's extremely limited, to the point that we can't
22 afford the long lenses to take with us so that we might
23 get a glimpse of a horse. And it is -- it's a waste of
24 time.

25 Q. Well, let's get to the bottom of the issue. What's

1 the issue? What's keeping you from looking at them? What
2 is it?

3 A. The way that we are positioned. We're kept behind
4 a burlap perimeter. And we're not allowed to go beyond
5 that. We're escorted if we need to use the rest room. We
6 have people standing by while we're -- there's no -- it's
7 invasion of privacy. You don't have any privacy at all.

8 Q. Okay. Are there obstructions in the way?

9 A. Trucks, trailers, you know, whatever they can put
10 in front of it, they do.

11 Q. All right. And is it to the extent that Horse
12 Power is considering reducing its ability to go to
13 these --

14 A. It already has.

15 Q. -- roundups with clients?

16 A. Yes, it already has.

17 Q. Okay. Now, has -- can you just tell us, also,
18 similar difference, in your experience, at temporary
19 holding facilities? How has that changed?

20 A. Well, there are times when we're not even allowed
21 to view them because the land owner doesn't want anybody
22 on their property on Saturdays or this, that, or some odd
23 reasons.

24 Q. All right. But then are there times where you are
25 able to view them?

1 A. Yes. But it's limited.

2 Q. Okay. And tell the Court, please, what the
3 limitations are.

4 A. Well, because of the fencing, the plastic fencing
5 that's very thick, I guess that's the snow fencing, being
6 able to even see in there or detect if there are hooves in
7 there that are cracked or bleeding is almost impossible.

8 We were allowed at one point, because we had -- oh,
9 because the LA Times reporter was there, we were allowed
10 to get in the back of a pickup truck and view over a
11 certain area. But it was very limited. It was only the
12 stallions we were able to see.

13 Q. Okay. And but for the LA Times reporter, your
14 impression was you would not have been allowed to do that?

15 A. Exactly.

16 Q. And then are you -- today at temporary holding
17 facilities, are you able to identify horses, particular
18 markings?

19 A. No.

20 Q. Okay. Now, what about the facilities that the BLM
21 ships horses to? Let's start with Broken Arrow.

22 Have you -- do you have an experience,
23 historical -- from a historical perspective --

24 A. Yes.

25 Q. -- of Broken Arrow looking at horses?

1 A. Yes.

2 Q. Okay. Tell the Court, please.

3 A. When it was first opened, which was limited, we
4 were allowed to walk through, take pictures, and get tag
5 numbers so that if we had potential adopters we could
6 alert them and send them a picture, like this is the horse
7 you're looking for.

8 And slowly but surely that ability shrank and
9 shrank and shrank. And the employees out there became
10 harsher.

11 Q. Well, what is it that's -- when you said the
12 ability to observe is shrinking, or shrank and shrank,
13 just some facts to support that. What are we talking
14 about?

15 A. Well, to begin with, we were allowed to view -- go
16 down all of the aisles and view all of the horses,
17 including the ones that were in the medical facility.

18 And there are some old horses. And, you know, when
19 you get old, you die. So that's understood. There were
20 some very traumatized animals in there as well.

21 And then it was reduced to what it is now, which
22 is --

23 Q. You mean access?

24 A. Access.

25 Q. Okay. Go ahead.

1 A. I'm sorry. Access is reduced to a trip in the back
2 of a trolly, I think as described before. It's very
3 crowded. It moves only if you ask -- will ask to stop
4 will they stop.

5 And getting pictures of horses that we might be
6 able to adopt is difficult. I was able to facilitate,
7 hopefully, the adoption of a couple of horses from
8 October.

9 Q. Okay. So has the limited access at, for instance,
10 Broken Arrow that you're experiencing more recently, has
11 that had some detrimental effect on your ability to help
12 with adoptions?

13 A. Yes.

14 Q. Tell the Court, please.

15 A. Yes.

16 Q. Tell the Court --

17 A. Yes, it has.

18 Q. How?

19 A. Well, not being able to see what's out there and
20 knowing what people are looking for, in particular the
21 curly horses in the United States, there are a number of
22 people that love them, I'm unable to get any information
23 to them.

24 If I hadn't had the pictures of the curly horses
25 while I was out there in October, we would have been

1 denied that they were even out there. So because we were
2 able to take pictures, we can say yes, we have pictures.
3 These horses are there. So it's been dramatically cut.

4 Q. Okay. Do you have an impression or a thought why
5 your access has been limited? Broken Arrow?

6 A. There are a number of diseases that run through
7 Broken Arrow. And I believe that because by law, now,
8 they have to open the facility twice a year, that there
9 are times when there are many sick animals out there they
10 don't want us to see. And I think that they're being kept
11 from us.

12 There are a number of horses that are -- sale
13 authority horses, that are available for \$10 or more or
14 have the three strikes, and they are shipped out in large
15 quantities. And I don't believe they want us to know that
16 either.

17 MR. PETERSEN: Speculation.

18 THE COURT: Sustained.

19 MR. COWAN: Okay. You mean about the part
20 where "I don't think that they want us to know that," is
21 that, Your Honor, the sustained objection?

22 THE COURT: She can't testify as to their
23 reasons.

24 MR. COWAN: Right. Okay.

25 THE COURT: She can testify what personally

1 occurred with her.

2 MR. COWAN: All right. Thank you. That's all
3 I have.

4 THE COURT: Cross-examination?

5 MR. PETERSEN: One moment, Your Honor.

6

7 **CROSS-EXAMINATION**

8 BY MR. PETERSEN:

9 Q. Hello, Ms. Summers. You gave us a bit of your
10 background, which I appreciate.

11 I wonder, are you a trained veterinarian?

12 A. No.

13 Q. No. Okay. And in your testimony about the various
14 gathers that you had been to, it got, at least for me, a
15 little muddled.

16 Could you clarify, at least, have you -- the
17 gathers that you were testifying to on the stand today,
18 were they gathers that occurred in 2009 and beyond?

19 A. From 2009 until current.

20 Q. To current. So that would be a yes?

21 A. Yes.

22 MR. PETERSEN: Thank you.

23 MR. COWAN: Thank you, Your Honor. That's all
24 I have.

25 THE COURT: All right.

1 Ms. Summers, you can step down. Thank you.
2 Your next witness?

3 MR. COWAN: Mr. Robert Bauer.

4
5 **ROBERT BAUER,**
6 called as a witness on behalf of the
7 Plaintiff, having been first duly sworn,
8 was examined and testified as follows:

9
10 THE WITNESS: I do.

11 THE CLERK: Please be seated.

12 Please state your full name for the record,
13 spelling your last name.

14 THE WITNESS: Robert Bauer. Last name
15 B-a-u-e-r.

16 THE CLERK: Can you please tell us your city
17 and state of residence.

18 THE WITNESS: New Albany, Indiana.

19 THE COURT: Go ahead.

20

21 **DIRECT EXAMINATION**

22 BY MR. COWAN:

23 Q. Good morning, Mr. Bauer.

24 A. Good morning.

25 Q. You're not from Nevada, are you?

1 A. No, sir.

2 Q. Are you from Indiana?

3 A. Yes. Yes.

4 Q. How long did it take you to get out here?

5 A. It's about a 2,100 mile trip. It's usually an
6 all-day flight. Or if I drive it, it's about a three-day
7 trip, using my own funds, of course.

8 Q. Okay. And do you have experience in observing BLM
9 roundups?

10 A. Yes, sir.

11 Q. Okay. And have you always traveled from Indiana to
12 come west to Nevada or other western states to view BLM
13 roundups?

14 A. I was present for the September 2009 roundup up in
15 the Pryor Mountains.

16 Q. Okay. And where are the Pryor Mountains?

17 A. They're located southern Montana, northern Wyoming.
18 It crosses over the border, over the state line.

19 Q. Okay. And why were you there?

20 A. I went out there initially to experience the wild
21 horses. I had never experienced them in the wild before.
22 And so I had a very beautiful experience out in the wild
23 observing them in balance with everything else, and then,
24 subsequently, a BLM roundup several days later.

25 Q. In other words, when you went out there, was it

1 your intent to see a BLM roundup, or was your intent to
2 just be out in the wild with wild horses?

3 A. I went out there to be out with the wild horses.
4 But I was aware of the roundup and stayed for it.

5 Q. Okay. Okay. And just tell the Court just your
6 personal experience before we get to the roundup. What
7 caused you to become interested in wild horses as a result
8 of this experience?

9 A. Up in the Pryor Mountains, we had very close and
10 beautiful encounters with the wild horses out in the wild
11 in balance with everything around them. There was no
12 aggression. There was no danger.

13 I saw how it was without man's intervention, and
14 then, subsequently, saw what occurred during the BLM
15 roundup during the time and realized I couldn't turn my
16 back on it after that.

17 Q. Okay. So let's get a timeframe. Pryor Mountains.
18 Was this your first roundup?

19 A. Yes.

20 Q. What's the date, roughly?

21 A. September 2009.

22 Q. All right. And can you just tell the Court,
23 please, your observations relative to your access to see
24 and view wild horses as they're being managed or rounded
25 up?

1 A. We were able to view the horses very clearly when
2 they were coming in to the trap. You could distinguish
3 between gender. You could distinguish age markings, *et*
4 *cetera*. This was clear.

5 They did allow certain individuals to go back in
6 close proximity with the wild horses after they had been
7 gathered. However, there were -- obviously they -- during
8 the roundup, there was a breakup of the social structure,
9 by virtue of the fact that they would separate mares from
10 their foals, stallions from their band, *et cetera*. There
11 was obviously chaos. There's no question about it.

12 Q. But, nevertheless, you were able to observe it --

13 A. Yes.

14 Q. -- without obstructions?

15 A. Yes. We were -- I mean, the BLM individuals were
16 there. And we obeyed by the rules. We stayed behind a --
17 a barrier but were allowed to -- as long as we stayed low,
18 we were able to look over it and see the horses very
19 clearly as they were coming in.

20 Q. Okay. At the temporary holding -- do they have a
21 temporary holding facility at that roundup as well?

22 A. They held them there.

23 Q. And did you have access there?

24 A. Certain individuals were allowed to get close, yes.
25 They allowed certain individuals to get back there, a main

1 observer, another individual also.

2 Q. Okay. Individuals who are members of the public?

3 A. Yes.

4 Q. All right. And when you say close, what do you
5 mean?

6 A. Well, they were up to the pens.

7 Q. All right. And you saw this?

8 A. Yeah. I watched them get in there. And I watched
9 them -- they were escorted back there by BLM individuals,
10 but they were allowed very close access to observe the
11 animals after they were rounded up.

12 Q. All right. Now, did you have any experience with
13 any facilities that they had shipped the Pryor horses to?
14 Yes or no?

15 A. The Pryor Mountain horses?

16 Q. Yes.

17 A. No, not after that, no, I did not.

18 Q. Okay. So then what was your next experience with a
19 wild horse roundup?

20 A. I was able to document the Calico Mountain complex
21 before, during, and after the Calico Mountain roundups of
22 late December 2009 into February of 2010.

23 Q. Okay. And so can you tell us your experience
24 there -- well, let me back up.

25 How many days were you there at Calico?

1 A. I was only able to -- based upon my schedule, I was
2 only able to get out there -- oh, just for the roundup
3 you're talking about?

4 Q. Yes.

5 A. Okay. I was only able to get out there for three
6 or four particular days.

7 Q. All right.

8 A. Based upon my schedule.

9 Q. Okay. All on the same trip?

10 A. No. No. I had to make several trips out.

11 Q. From Indiana?

12 A. Yeah, from Indiana.

13 Q. Why did you do that?

14 A. Because I wanted the public to know what was going
15 on.

16 Q. Okay. So tell us your experience, in terms of what
17 you were able to -- well, just your experience out of
18 Calico? Let's start with that.

19 A. As far as obeying the rules, we always obeyed the
20 rules. Respectful of BLM officials. We had armed guards.
21 There were only certain days we were allowed to observe
22 the roundups. And other days we were not -- the public
23 was not available to watch them.

24 In other words, the roundups continued to go
25 continually, fairly continually, throughout late 2009 into

1 February 2010. However, the public was only allowed to
2 view the roundups on certain days. I believe it was at
3 least just a couple days every week.

4 Q. All right.

5 A. We could also distinguish -- you know, when the
6 horses came in and observing them, based upon our
7 viewpoint back then, we could distinguish -- we could
8 distinguish gender, we could distinguish particular
9 markings, ages, *et cetera*. We were able to see that very
10 clearly.

11 Q. So you were able to identify horses?

12 A. Yes.

13 Q. Okay. Now, what about temporary holding at Calico,
14 were you able to identify horses there?

15 A. Yes. There were times -- the times that I were out
16 there, we were allowed to get very close to the fence.

17 Q. Okay. Very close means what?

18 A. Right up to the -- right up to the fences.

19 Q. All right. And -- okay.

20 Now, what was the last roundup you went to?

21 A. The Wassuk HMA.

22 Q. Is that in Nevada?

23 A. Yes, sir.

24 Q. And how is your access --

25 THE COURT: When was that?

1 MR. COWAN: I'm sorry?

2 THE COURT: There was no date attached or time.

3 BY MR. COWAN:

4 Q. Okay. What was the date of that roundup at Wassuk?

5 A. It was November of 2012.

6 Q. Okay. And tell us about your access there?

7 A. It was -- there was really no point in -- it got to
8 the point where I realized, you know, they weren't
9 allowing us to see anything.

10 I could get into detail as to how they set it up so
11 that the public couldn't see very little, based upon where
12 the viewing point was, how they set up the trap, the
13 position of the opening of the trap to the public, how far
14 away it was.

15 Q. Well, just, please, tell the Court just a few facts
16 of why you couldn't see the roundup itself.

17 A. Okay. Well, the viewing point for the public was
18 at least a hundred yards up away from the trap itself, at
19 least that much.

20 Secondly, it was located -- the trap was located in
21 a wash, where there was a slope -- it was sloping up on
22 both sides. And then the opening of the trap was on the
23 opposite side of where the public was viewing.

24 And when the horses were brought in, you could
25 barely see them because they brought them in around the

1 opposite ridges and around to the -- to where the wash
2 began. And then they drove them in from there by
3 helicopter.

4 By the time you could view the horses, you could
5 only see them for probably 15 seconds, I'd say, 15 or 20
6 seconds. And these -- you could only see pretty much the
7 heads bobbing up and down. You could not distinguish
8 markings very well. You could not distinguish colors.
9 You could not distinguish gender. You could very rarely
10 see age in any of them.

11 Q. Okay. So I just want to understand this then.

12 Is it the geographical features of the mountains
13 that paralleled where the area of the trap is that
14 prevented you from seeing the horses coming in to the
15 pens?

16 A. Not only that, but the position of the trap itself.
17 The trap itself was set up so that the opening of the trap
18 was opposite of where the public was viewing, on the far
19 side. So actually you were looking across the trap, you
20 were having to look across the trap to see the horses
21 coming in. So you really couldn't see the horses at all.

22 Q. And based on your elevation versus the elevation of
23 the trap, is it roughly equal, if you know?

24 A. The observation place was a bit above it. I can't
25 give you exact numbers at this point. But we were

1 elevated a little bit. But at the same time you still
2 could not see.

3 Q. And then the panels themselves that created the
4 trap itself, could you see through those panels?

5 A. No, you could not.

6 Q. At the -- at this roundup, Wassuk, were you able to
7 identify horses by their particular markings or gender?

8 A. No.

9 Q. Okay. Now, what about at the -- did they have a
10 temporary holding out at Wassuk?

11 A. Yes, they did.

12 Q. Okay. And tell us your experience about viewing
13 that as well.

14 A. We were kept behind the line. I am just taking a
15 guess from recollection, trying to view back to it, that
16 it was roughly 200 feet away from the pen itself. And we
17 had to stand behind the line and take pictures from that
18 point.

19 They did allow a couple times, as I recall, for us
20 to go around to the far side of the pen. But we were
21 still kept at a distance. I'm trying to get -- I'm
22 thinking you would probably want a distance at that point.
23 And I'm just guessing at probably a hundred feet,
24 something along those lines.

25 There was one point where they did allow the group

1 to get up behind a pickup truck and view the stallions up
2 closely. And that was when the LA Times reporter was
3 there. I was present at that point.

4 Q. All right. And were these holding pens -- did they
5 have, oh, a barrier or snow fence or something in the way,
6 or could you see through the panels to see the horses?

7 A. No, you couldn't see very clearly through the
8 panels.

9 Q. Your observation when you had to stand,
10 quote/unquote, behind the line, could you identify
11 particular markings or identify horses or gender?

12 A. I couldn't.

13 Q. Okay. When you were allowed to go around and into
14 a location of what you depicted, perhaps guessing, roughly
15 a hundred feet that -- were you able to identify
16 particular markings of horses for their gender that were
17 in those temporary holdings?

18 A. They were closer, so there was a -- to some extent
19 you could, yes.

20 Q. Okay. So could you see horses, whether or not they
21 were injured or not?

22 A. It was hard for me. I kept trying to focus at the
23 distance on the feet, to see if there were any injuries,
24 if there was any limping. And I had -- for me I had a
25 hard time.

1 Q. Okay. Do you have an impression of why this access
2 over time, at least in your experience, has changed?

3 A. My impression, if I may speak freely, the roundups
4 have obviously increased. No one can doubt that. They
5 have increased in number, number one. And over a short
6 period of time.

7 As a result, they're becoming more aggressive in
8 the roundups. A lot of mistakes are being made. These
9 are being reported regularly during the roundups. And
10 it's very clear that they want to hide the mistakes that
11 they make.

12 MR. PETERSEN: Objection, Your Honor.
13 Speculation.

14 THE WITNESS: That is not speculation, sir.
15 Have you been out there, sir?

16 THE COURT: Wait. The objection is sustained.
17 It is speculation.

18 You can -- I will allow you to testify to your
19 personal impression. But you can't testify to what
20 someone -- the reasons why someone else is acting.

21 BY MR. COWAN:

22 Q. It's your impression; yes?

23 A. Yes.

24 Q. What you said?

25 A. Yes.

1 Q. Okay.

2 Mr. Bauer, thank you. That's all I have.

3 A. You're more than welcome, sir.

4 THE COURT: Cross-examination?

5 MR. PETERSEN: No questions, Mr. Bauer.

6 THE COURT: All right.

7 Mr. Bauer, you may step down. Thank you very much.

8 THE WITNESS: Thank you, sir.

9 THE COURT: Mr. Cowan?

10 MR. COWAN: Your Honor, may I call Elyse
11 Gardner to the stand.

12 THE COURT: Yes.

13

14 **ELYSE GARDNER,**

15 called as a witness on behalf of the

16 Plaintiff, being first duly sworn,

17 was examined and testified as follows:

18

19 THE WITNESS: Yes, I do.

20 THE CLERK: Please be seated.

21 Would you please state your name for the record,
22 and spell your last name.

23 THE WITNESS: My name is Elyse Gardner,
24 E-l-y-s-e G-a-r-d-n-e-r.

25 THE CLERK: Can you please tell us your city

1 and state of residence.

2 THE WITNESS: Petaluma, California.

3

4

DIRECT EXAMINATION

5 BY MR. COWAN:

6 Q. Good morning. How are you?

7 A. Good morning. I'm well, thank you. I'm glad for
8 this day.

9 Q. Are you -- I guess every day it is a good day,
10 isn't it?

11 Where do you reside currently?

12 A. I live in Petaluma, California.

13 Q. All right. How is it that you became connected, if
14 you did, with wild horses?

15 A. I watched movies. I saw the series on the Cloud,
16 PBS Cloud specials. I started researching them and went
17 to an advisory board meeting in California that year, in
18 2009, in June, and was very concerned about some of the
19 things I was hearing and decided to attend in the Pryor
20 Mountain roundup and was invited to do so.

21 Q. Okay. Now, before that time, were you a horse
22 owner?

23 A. I cared for other people's horses. I am now. I
24 adopted a Mustang. I had sponsored some horses. But I
25 was not a horse owner.

1 Q. Okay.

2 A. But I had a lot of time with horses.

3 Q. And just a -- I forgot to get into this first.
4 I'll just do it quickly. Just your quick background
5 professionally?

6 A. I'm a California Certified Shorthand Reporter,
7 retired, and I am a musician.

8 I became equine science major and worked at -- I've
9 worked at two -- a ranch while I was doing my equine
10 science program. And have worked also at a wild horse and
11 burro sanctuary.

12 Q. And was that sanctuary here in Nevada or in
13 California?

14 A. Very northern-most California.

15 Q. All right. So have you attended a BLM roundup?

16 A. I have attended a few.

17 Q. And what was your first experience? Where?

18 A. In the Pryor Mountains in 2009, September.

19 Q. September 2009?

20 A. Yes.

21 Q. All right. Can you tell us -- tell the Court,
22 please, just generally, about your experience there.

23 A. I found myself as to be acting the role of humane
24 observer. I had a lot of good viewing of the horses
25 coming in, along with the other members of the public. My

1 position during the incoming horses was no different than
2 anyone else's.

3 However, during processing, sorting of the horses,
4 I was able to stand with other sort of select members of
5 the public at that time.

6 But everyone had pretty good viewing. I had better
7 viewing for the first three days. I'll get into that a
8 little bit more. But it was really easy to see the horses
9 coming in.

10 And we had regular viewing of the horses in the
11 capture pens, daily viewing, and I think even -- if memory
12 serves, I think we even had several times when we had
13 twice-a-day tours of the pens where the horses were being
14 kept during that roundup, which was a -- they removed
15 some.

16 And they also did a major treatment with BCP, the
17 infertility drug. And so we got to watch that. And
18 particularly I had very close viewing. I was probably 35
19 feet away, behind sort of a mesh fence.

20 Q. Okay. So viewing the wild horse roundup itself out
21 in the Pryors, how close were you the first few days to
22 the action?

23 A. The viewing of the horses coming in -- there were
24 two -- the horses were driven through kind of a valley.
25 We were up high looking down at them.

1 And the press were given a spot on one side that
2 was closer and not quite as high. And then we -- the rest
3 of the public were given -- I'd say they were about 75
4 feet, 100 feet from the -- looking down at the horses
5 behind a few little trees.

6 And then we were about 100 to 300 yards above. I
7 have a hard time with this. But it was pretty good
8 viewing. It was -- you know, compared to what came later
9 at BLM roundups, this was very good viewing. I could
10 identify individual horses. I could identify bands. And
11 the people who followed those horses regularly could
12 identify individuals by name.

13 We also were given the opportunity, as members of
14 the public, to be where the press had been. And we
15 appreciated that. And we were able to be there, as well,
16 where the press had been, when horses were released.

17 Q. All right. And so you were able to identify
18 certain horses by their markings and gender based on your
19 observations of seeing the horses come in; yes?

20 A. Yes.

21 Q. All right. Now, and at temporary holding there at
22 the Pryors, how was the access there?

23 A. Very, very good.

24 Q. What's that mean? How close?

25 A. When I say the access is very, very good, that

1 means that I could see the horses, I could see their
2 condition, I could see any injuries, and I could
3 photograph and video it.

4 And I'd like to step back to the actual roundup.
5 Because I was also given the opportunity, by one of the
6 roundup contractors, to go and see the horses. It ended
7 up being 35 minutes. My metadata on my film, my cameras
8 told me 35 minutes after they had come in.

9 I really wanted to be able to document respirations
10 and sweat and potential injuries. And I asked strenuously
11 that I be allowed to do that.

12 And Sue Cattoor said, "I'll probably regret this,"
13 but she took me, and I was able to film two bands that had
14 come in 35 minutes earlier. And their respirations were
15 at 128, and their nostrils were still flaring. They
16 were -- appeared to be exhausted.

17 Q. Okay. And then was your presence there -- did it
18 cause any harm or commotion with the horses?

19 A. Not at all.

20 Q. Did it cause injury to any BLM personnel?

21 A. No.

22 Q. Any member of the public injured because of your
23 presence being that close?

24 A. No.

25 Q. Okay. And just to be clear, being that close, what

1 does that mean to you? How close were you observing these
2 horses? At temporary holding?

3 A. At temporary holding I was able -- and I hope there
4 were photographs provided. I was able to view the horses
5 and photograph the horses through the panels so that there
6 weren't even -- in some instances, so that there weren't
7 even the bars of the panels in the way.

8 Q. Okay. So were you right up to the panels?

9 A. Yes. And respectfully so. You know, we were --
10 toured around with BLM. And the horses were standing
11 quietly. People walked quietly. There was no drama or
12 trauma to anyone. And the public got to see and document
13 these horses. And they were all adopted.

14 Q. All right. And was there any snow fencing or any
15 barriers that was attached to that -- these panels that
16 prevented you from seeing through them?

17 A. I reviewed my photographs from the Pryor roundup
18 recently, and I saw no snow fencing. I could see all the
19 horses unobstructed.

20 Q. All right. And then you said -- did you say that
21 all of those horses were adopted? Is that what you said?

22 A. All of the horses that were removed from the range
23 in the Pryor Mountains were adopted.

24 Q. All right. Now, what was your next roundup?

25 A. The next roundup I went to was the Calico roundup

1 of 2000 -- it began in December, December 28th of 2009,
2 and continued, I believe it was, until February 4th of
3 2010. And I attended every day the public was allowed to
4 attend, which was two days a week. I missed maybe one
5 day.

6 Q. So let me get this straight then. The Calico
7 roundup had occurred roughly in a two-month period; yes?

8 A. Yes.

9 Q. And during that time you were present at Calico, or
10 that area, that entire time?

11 A. Yes.

12 Q. And during that entire time, you were only allowed
13 to see roundups, did you say, two days a week?

14 A. Yes. This was these -- the Calico roundup, almost
15 all of the trap sites were on private land, which I found
16 very frustrating because I could not go unless BLM
17 escorted me and other members of the public.

18 But when we were there viewing -- the trap sites
19 changed as -- you know, it's a huge area, 500-acre plus
20 area. And so the trap sites changed in order to capture
21 the horses in each area, and the viewing differed.

22 Attempts were always made to provide decent viewing
23 for us, at times sometimes better than others, when we
24 couldn't see -- when the terrain did not lend itself to
25 decent viewing where one could photograph and identify

1 horses coming in.

2 They provided a trailer, a horse trailer, for us to
3 stay in, with the admonition to be very quiet as everyone
4 was. No one, no one I've ever been to a roundup around,
5 including myself, has ever wanted to obstruct the roundup,
6 whether or not we -- personally whether or not I want the
7 horses on the range or off the range, at that point it's
8 just going to harm the horses and possibly people. So
9 everyone is quite cooperative at the trap sites.

10 Q. Okay. And so whether it was in the trailer or in a
11 viewing location in a trailer or in a viewing location
12 elsewhere, were you able to, during the roundup, see, to
13 the extent that you could identify horses by particular
14 markings, gender, that way?

15 A. Yes. I can't always see gender from that far, but,
16 yes. You know, I -- I was not -- personally, I believe
17 more access was still needed in that the respirations, the
18 horses' condition, I was never given that level of access
19 again that I had in the Pryors. And I found it more and
20 more difficult to view the horses as the roundups
21 progressed.

22 Q. Now, how about temporary holding at Calico, how was
23 your access to horses there?

24 A. We were able to tour around the pens, within ten
25 feet of the pens. We could see the horses clearly,

1 photograph them clearly. There was snow fencing.

2 But we were so close it wasn't the same type of
3 hindrance it is when you're held 20 yards away, 30 yards
4 away, 50 yards away, when you have to stand -- well, I'll
5 wait, I guess. I can contrast it later. But we were
6 able -- I was able to see the horses pretty well.

7 Q. Okay. To the -- pretty well meaning, what, to the
8 extent that you could identify them and their gender?

9 A. At Calico, oh, yes.

10 I have a blog, I should say at this point. I have
11 a lot of dedicated readers, some many subscribe, and
12 others just, you know, tune into it regularly. And I was
13 doing a weekly update during the Calico roundup of that
14 blog. And people were very interested in those horses.

15 Many of the horses that I noticed and began
16 displaying photographs of ended up in the Internet
17 adoption because members of the public were so interested
18 in them.

19 Q. Okay. So do you have a personal knowledge, then,
20 that the photographs, some of which you took occurring at
21 Calico, caused some of those horses to be adopted?

22 A. Yes. Definitely.

23 Q. All right. And for the Court's knowledge, what is
24 your blog? What's the address?

25 A. Humaneobserver.blogspot.com. And it goes back to

1 January of 2010.

2 Q. All right. Now, while at Calico, did access
3 change?

4 A. Yes.

5 Q. Can you tell the Court about that, please.

6 A. Specifically in January, toward the end of the
7 roundup, I -- there was a day when no roundup was going to
8 take place. The helicopter wasn't going to fly. But we
9 were already out there. And while Alan Shepard and Dave
10 Cattoor were talking, they said that we could walk around
11 and take a look at the temporary holding facility. There
12 were no horses there.

13 Q. Who is Dave Cattoor and who is Alan Shepherd?

14 A. Alan Shepherd is the -- was the Nevada lead for the
15 wild horse and burro program. And Dave Cattoor is the
16 head of the Cattoor roundup. They do some of the
17 helicopter roundups -- at that time, all of the helicopter
18 roundups. So he was the chief of that organization.

19 I picked up some hay and was looking at the hay
20 that was being used. I was studying equine nutrition. I
21 was interested in the hay that they had. And I was
22 holding it in my hand. And it was suddenly yanked out of
23 my hand as I was talking to the wild horse and burro
24 specialist.

25 And Dave Cattoor was standing there when I turned

1 around, screaming at me, and throwing the hay to the
2 ground.

3 And the day after this happened, there was caution
4 tape around the temporary holding pens. And it was a good
5 70 yards back. And we were told we would no longer be
6 allowed to get next to the pens, to walk around and see
7 the horses.

8 And after that we've never -- the access to view
9 horses in temporary holding has always been extremely
10 limited. And that was the turning point.

11 Q. Okay. And so turning point, what do you mean?

12 A. That was the -- that was a key turning point, in my
13 experience, in the ability to walk around the temporary
14 holding pens and see and assess and identify individual
15 horses. I could no longer do that.

16 Q. Your impression was because you picked up some hay,
17 a handful of hay?

18 A. Dave Cattoor, what he screamed at me was, and
19 please forgive the vernacular, but, "What are you going to
20 do with this shit, you going to eat it?" And he threw it
21 to the ground.

22 And I later learned -- I was stunned and
23 frightened. And I told Alan Shepherd, like, that was
24 really inappropriate.

25 And he said to me, "Yes, I'll talk to him."

1 And I said, "I don't know what -- why that
2 happened." I've never -- I spoke to the man once in the
3 Pryors and actually all he said was, "You two need to
4 stand over there." I've never had an interaction with him
5 before.

6 And Alan Shepherd informed me that there was a lot
7 of pressure on BLM because members of the public were
8 saying --

9 MR. PETERSEN: Objection, hearsay.

10 THE COURT: Sustained.

11 THE WITNESS: Well, Mr. Shepherd is here. You
12 can ask him.

13 THE COURT: The objection's sustained.

14 Go on to your next question.

15 BY MR. COWAN:

16 Q. And --

17 A. It wasn't because --

18 MR. PETERSEN: Objection, Your Honor. There's
19 no question been posed.

20 THE WITNESS: Okay.

21 MR. COWAN: That's okay.

22 BY MR. COWAN:

23 Q. So matters got tense for you?

24 A. Yes.

25 Q. Did it get tense for the public, as well, your

1 observations?

2 A. My observation was that there weren't even any
3 horses present that day that that happened. There was --
4 repeat your question, please.

5 Q. Was it your observation that it became tense for
6 the public as well?

7 A. Yes. I felt -- I felt that the public and the
8 horses, because we didn't have access to them, I felt that
9 we were being deprived and kind of punished because the
10 photographs and narratives that the public was hearing
11 from my blog and others didn't always cast BLM in a
12 positive light.

13 And people's concern about the hay -- and there
14 were horses dying. There were record deaths following the
15 Calico roundup. And people were very, very disturbed over
16 this. And access got smaller and smaller.

17 Q. All right. During the Calico process; yes?

18 A. Well, at the very end. And at the very end of the
19 Calico.

20 Q. Okay. Have you been to recent roundups?

21 A. Yes. Well, I went to --

22 Q. I -- go ahead. Sorry.

23 A. Following Calico I attended the California roundup
24 at Twin Peaks. And when I did that, I stayed, again, for
25 the duration of that long roundup. There were 1,600

1 horses taken off the range. Calico there were 1,922. And
2 in Calico -- in Twin Peaks there were 1,600 horses, and I
3 believe 200 -- 160 burros removed. And I saw most of
4 those.

5 Q. And in your -- was there a difference in your
6 access from Calico to the Twin Peaks roundup?

7 A. California BLM tried -- tried to provide us with
8 access. There were times it wasn't very good. But when
9 certain BLM were present, they really tried to help. When
10 they weren't present, sometimes it was difficult to see.

11 Q. Let's fast forward to the last roundup you've been
12 to.

13 A. Yeah.

14 Q. What was that one?

15 A. The last one was the Calico roundup of 2012.

16 Q. Okay. Calico again in 2000 -- 2012?

17 A. Yes.

18 Q. Okay. What time of year was that?

19 A. That, again, was in the winter. That was December
20 of -- started in 2011. And they took some time off during
21 the Christmas break. And it continued and concluded in
22 January of 2012.

23 Q. And can you describe for the Court your access to
24 that roundup?

25 A. It was abysmal.

1 Q. Factually?

2 A. I'm sorry. I'm sorry. I should know better.

3 There were times we were three-quarters of a mile
4 from the trap with trees blocking the mouth of the traps.
5 So all we could see was the Judas Horse being followed by
6 the horses that were captured. We could not see them
7 coming. All we could see was the helicopter bobbing,
8 bobbing, bobbing, and we could hear it droning, but we
9 could not see anything except the horses coming in.

10 That was pretty characteristic. Sometimes --

11 Q. Okay.

12 A. Yeah.

13 Q. How about this? Were you able to identify horses
14 by markings or gender as you saw them coming in being
15 rounded up at Calico 2012?

16 A. Too far away. There were a couple of trap sites
17 where we could see them coming in. I don't mean to say
18 they were all bad. I like being accurate. But we were so
19 far away that I could not. And I had -- well, yeah.

20 Q. Okay. Now, what about the temporary holding that
21 they had at Calico 2012, how was the access to that?

22 A. It was almost nonexistent in that it was once a
23 week on Saturday, which meant that the horses I didn't see
24 coming in off the range, I never saw. I never saw.
25 Because those horses were brought to temporary holding,

1 stayed there for a couple of days, maybe, and then they
2 were shipped off to Palomino Valley and Broken Arrow.

3 And Broken Arrow facility is closed to the public.
4 So I don't even get to go in there and see those horses.
5 So I never saw them. I never got to see them in temporary
6 holding because they were gone by Saturday. So on
7 Saturday, I only got to see whatever horses were left
8 there on Saturday.

9 Q. Do you have an impression why this change in
10 access?

11 A. Yes. I have several distinct -- I have -- I base
12 my impression -- my impression is that BLM was squirming
13 under the scrutiny and the objections of the public which
14 were coming in because of the reports, photographs, and
15 videos that were made public by me and others.

16 In addition, I was told by two BLM --

17 MR. PETERSEN: Objection, hearsay.

18 THE COURT: Sustained.

19 THE WITNESS: I have a question.

20 MR. COWAN: Hold on just a second. Let me just
21 ask a question, and then maybe I'll get an objection, and
22 maybe we can get around it.

23 THE COURT: All right. Go ahead.

24 MR. COWAN: If that's all right. Thanks.

25 Just a moment, Your Honor. I'm conferring.

1 BY MR. COWAN:

2 Q. Did a BLM employee ever tell you --

3 MR. PETERSEN: Objection, hearsay.

4 MR. COWAN: Let me finish. It might not be.

5 BY MR. COWAN:

6 Q. Did a BLM employee ever tell you that you would
7 never have the access that you had had previously because
8 of your postings?

9 MR. PETERSEN: Same objection.

10 THE WITNESS: Yes.

11 THE COURT: The objection is overruled.

12 But you need to identify who, when, and where.

13 MR. COWAN: Okay.

14 THE WITNESS: Okay.

15 MR. COWAN: May I let the witness do that, Your
16 Honor?

17 THE COURT: Yes.

18 MR. COWAN: Okay. Thanks.

19 BY MR. COWAN:

20 Q. Go ahead, please.

21 A. It was the Calico roundup of 2012. It was Gene
22 Seidlitz, the district manager in Winnemucca. It is his
23 district. And the Calico roundup is his responsibility.

24 And I was -- we were discussing how bad access had
25 become. And he was very hurt and angry. He said to me:

1 I was very upset. You will never have the access you had
2 at the first Calico again. I did everything I could. I
3 felt you personally targeted me. I felt the public was
4 angry and singled me out, and it's not going to happen
5 again.

6 Q. Okay.

7 A. I -- that is not the only BLM employee that told me
8 I would have limited access.

9 Q. Okay. Was there another employee who said it?
10 Please tell us.

11 A. Yes. In the first Calico, during a tour at Broken
12 Arrow, Lily Thomas, who was in charge of the long-term
13 holding facilities, thought I had posted a video that I
14 had not posted.

15 And I was saying that I wanted to be able to
16 eventually get into long-term holding and see horses
17 there; that the public had a right to know and see how
18 they were in long-term holding.

19 And she turned and looked at me and said, "I don't
20 like you. Nobody likes you. You're never getting into
21 long-term holding."

22 Q. Who is Lily Thomas?

23 A. Lily Thomas is a BLM employee.

24 Q. All right. Now, have you been to Broken Arrow?

25 A. Yes.

1 I have one more reason to believe, however, that
2 BLM has --

3 MR. PETERSEN: Objection, speculation.

4 THE COURT: Sustained.

5 THE WITNESS: Based on a document?

6 THE COURT: The objection's sustained.

7 MR. COWAN: Let me just -- I'm sorry, Your
8 Honor. I lost control. I apologize.

9 BY MR. COWAN:

10 Q. How about this. Let's just start with your
11 experience at Broken Arrow. Okay? Just go ahead and tell
12 the Court your experience there, maybe earlier days, give
13 a date, and then make a comparison for later times.

14 A. Okay.

15 Q. Okay?

16 A. During Broken Arrow, we were -- it is a private
17 facility contracted with BLM to hold up to 2,800 horses, I
18 believe. And so tours were done at first twice a week, so
19 that we could see the horses that were coming in fresh off
20 the range in 2010 and we could follow up on them.

21 And I want to say that the public would call me and
22 ask to get me to get tag numbers for horses they saw on my
23 blog or horses that they saw who had trouble being rounded
24 up because they would identify with or feel sorry for or
25 like certain characteristics of the animal, and they

1 wanted to adopt some of the animals that had problems
2 getting rounded up.

3 And it was frustrating to me when I -- that BLM
4 didn't always make it -- didn't make it possible.

5 MR. PETERSEN: Objection, Your Honor. Could we
6 get a question and answer, rather than a narrative?

7 THE COURT: Yes.

8 THE WITNESS: Okay. I apologize.

9 Do you want to reask the question.

10 MR. COWAN: That's fair.

11 BY MR. COWAN:

12 Q. Well, let's just talk about this. Your viewing at
13 Broken Arrow in the beginning, how was it? And then
14 just -- let's make a comparison.

15 A. It was controlled but very good.

16 Q. All right. And very good meaning --

17 MR. PETERSEN: Your Honor, can you please ask
18 for some temporal distinctions here?

19 THE WITNESS: I apologize for the lack of
20 detail.

21 THE COURT: Wait a minute. There's an
22 objection.

23 Mr. Cowan, establish date and time and place.

24 BY MR. COWAN:

25 Q. Could you tell us the date, the time that we're

1 talking about at Broken Arrow?

2 A. Yes. Date would be December, January -- it would
3 be January, February 2010. Time would be twice a week.

4 Q. During that time were you able to identify horses
5 by particular markings, gender, tags?

6 A. Yes.

7 Q. Okay. And did that process; meaning your ability
8 to look at horses there, did that change over time?

9 A. Yes. It was reduced to once a week.

10 Q. Okay. When, roughly?

11 A. Shortly after the roundup started and the reports
12 started coming in about the problems horses were having, I
13 was reporting on my blog injuries that I saw at Broken
14 Arrow, policies that were --

15 MR. PETERSEN: Objection, Your Honor. Vague.
16 It's impossible for us to determine what time she's
17 talking about.

18 MR. COWAN: Just a -- let's get a --

19 THE COURT: Rephrase, yes.

20 BY MR. COWAN:

21 Q. So what's the timeframe we're talking about?

22 A. Same timeframe. January 2010.

23 Q. Okay.

24 A. Access was reduced to once-a-week tour. But we
25 could still see all of the animals very well. But it --

1 but had to limit the tour to a certain number, you know,
2 an hour and a half.

3 Many times the deputy division chief who conducted
4 the tour would extend it further. But if he didn't do it,
5 the tours were very short but were held to the
6 one-and-a-half-hour time.

7 Q. And then was there time where just finally access
8 ended, just stopped?

9 A. Oh, yes, entirely.

10 Q. Okay. And when was that?

11 A. After the -- it was in June of 2010, following a
12 court ruling regarding the roundup in that case.

13 Q. Okay. Were you able to help with adoptions in the
14 beginning or the earlier times you were able to get into
15 Broken Arrow?

16 A. Yes.

17 Q. Okay. And then was your --

18 A. And then -- I'm sorry.

19 Q. Go ahead. I'm sorry.

20 A. No, I'm good. Go ahead.

21 Q. All right. How many? How many horses do you think
22 you facilitated an adoption?

23 A. Wow. I've never counted. Roughly -- let me think.
24 Well, 14 or 15 from that roundup that I know of.

25 Q. Okay. And then the reduced access over time, did

1 that affect your ability to help facilitate adoptions?

2 A. Yes. I had to tell people that I couldn't help
3 them, that I can't identify that horse.

4 Q. How many people, if you know, your best estimate,
5 did you have to turn away because you didn't know?

6 A. Six. Roughly. I've had numerous inquiries about
7 one or more horses.

8 Q. Okay. I was just asking how many people you were
9 able -- you sent this message to, the message being: I
10 can't give you information about this horse because I
11 can't see it?

12 A. More than six. And I think it's more -- it's hard
13 to quantify that because people talk to --

14 MR. PETERSEN: Your Honor, I think the witness
15 has established that she's speculating at this point.

16 THE WITNESS: No. I'm trying to frame it in a
17 way it won't get an objection.

18 THE COURT: Well, I think it's been asked and
19 answered.

20 Let's move on.

21 MR. COWAN: Okay. Hold on just a second.

22 THE WITNESS: There was a group interested
23 in --

24 MR. PETERSEN: Your Honor, there's no question
25 posed at this time.

1 THE WITNESS: Okay.

2 MR. COWAN: I'm sorry. Just one second, Your
3 Honor.

4 BY MR. COWAN:

5 Q. And after Broken Arrow was closed, there was no
6 access, you were not able to facilitate any adoptions for
7 Broken Arrow; true?

8 A. True.

9 Q. All right. Was there ever a time you became
10 familiar --

11 THE COURT: Can you give me a date on that?
12 When was Broken Arrow closed?

13 BY MR. COWAN:

14 Q. I'm sorry. When was Broken Arrow closed?

15 A. June of 2010. Wait. Yes, June of 2010.

16 Q. And to be clear, it was closed to the public, not
17 closed to horses coming in off the range?

18 A. It was closed to the public.

19 Q. All right. Was there a time you became aware an
20 e-mail was circulated by Mr. Bolstad about why Broken
21 Arrow was closed?

22 A. Yes. Only the e-mail that had been penned by
23 Mr. Bolstad was provided. I'm sure he didn't want --
24 well, speculating.

25 Q. How are you aware of this e-mail?

1 A. It was given to me by an advocate who had received
2 the document through the Freedom of Information Act.

3 Q. Okay. An advocate working for Wild Horse
4 Education? If you know?

5 A. I don't know. I don't know.

6 Q. All right. So have you seen this e-mail before?

7 A. I am familiar with this e-mail now, yes.

8 Q. Okay. There are some exhibits, I believe, that are
9 in front of you.

10 A. I don't have any.

11 Q. All right.

12 A. I thought court reporting was hard.

13 Q. Looking at the exhibit marked as Exhibit No. 5,
14 have you seen that?

15 A. Yes. Yes, I'm familiar. This is the document I
16 was talking about.

17 Q. Okay. And is this the document that you're aware
18 of was obtained by the Freedom of Information Act?

19 A. Yes, it is.

20 Q. Okay. And is the reason stated by the -- well, let
21 me back up.

22 Is the author Mr. Bolstad?

23 MR. PETERSEN: Objection, hearsay.

24 MR. COWAN: The question is, is the author
25 Mr. Bolstad. That's not hearsay, Your Honor.

1 MR. PETERSEN: I believe it's going to the
2 facts that involve the e-mail. Part of the fact is who
3 the sender is.

4 THE COURT: I'm going to allow it, subject, of
5 course, to subsequent challenge.

6 So you may inquire.

7 BY MR. COWAN:

8 Q. So are you aware that Mr. Bolstad is the author?

9 A. The document indicates that Dean Bolstad is the
10 author of this document, that is correct.

11 Q. Okay. And do you have any information that this is
12 not a true and accurate copy of its original?

13 A. I have no idea that would indicate that this is
14 inaccurate. This appears to be a genuine Dean Bolstad
15 document, the one that I am familiar with.

16 Q. And, in fact, are you mentioned in this document?

17 A. I am.

18 MR. COWAN: Okay. Your Honor, I would offer
19 it.

20 MR. PETERSEN: Your Honor, to the extent that
21 the plaintiff's counsel is offering this e-mail as to the
22 truth of its content, we object that it's hearsay.

23 THE COURT: The Court's going to reserve ruling
24 on it. I will allow questioning on it. And I will treat
25 it in that fashion.

1 MR. COWAN: Okay.

2 MR. PETERSEN: Thank you, Your Honor.

3 MR. COWAN: And, Your Honor, would you be okay
4 if I allowed the witness to read the second and third
5 paragraph into evidence?

6 THE COURT: Well, she's not reading it -- I'll
7 allow her to read it. It's not necessarily going into
8 evidence.

9 MR. COWAN: I understand.

10 THE COURT: But subject to the government's
11 objection, I'll allow it to be read.

12 BY MR. COWAN:

13 Q. Ma'am, could you please read the second paragraph
14 and the third paragraph. Second paragraph beginning with,
15 "Based on my personal experiences"; and the third
16 paragraph beginning with, "I am not sensationalizing."

17 A. Yes. "Based on my personal experiences with phone
18 calls and e-mails from irrational individuals I am
19 becoming increasingly concerned about the safety of our
20 employees and potential terrorist acts against our
21 facilities. I am not concerned that people who attend the
22 tours will cause the harm, but I am concerned about
23 potential actions from the irrational and emotional
24 publics that read Elyse Gardner's blogs. There have been
25 no direct threats that we can take action against, but

1 I've had calls from individuals who are clearly mentally
2 unstable and others that express their outrage. The
3 volume of these angry communications increases each week
4 and last week the Churchill County Sheriff's Department
5 began an investigation following a complaint alleging
6 inhumane treatment of an animal at Indian Lakes.

7 "I am not" -- new paragraph. "I am not
8 sensationalizing this as I have experienced all of this
9 first hand after conducting the last nine Indian Lakes
10 Sunday tours and being the person that most call and
11 e-mail. John Neill's and our veterinarian's reputability
12 is seriously being compromised by the fall out from the
13 Indian Lakes tours."

14 And I will just add Indian Lakes --

15 THE COURT: Don't add anything here. You've
16 been asked to read it.

17 THE WITNESS: Okay.

18 BY MR. COWAN:

19 Q. Okay. And so when you saw this, what were your
20 thoughts?

21 A. My thoughts were I wasn't surprised because it's
22 what I had suspected. But I was outraged and
23 disappointed. I was very disappointed in Dean Bolstad.

24 Q. Are the blogs by Elyse Gardner to which this
25 references, are they still up on the Internet at that

1 blogspot.com address that you had given the Court earlier?

2 A. Yes, they are.

3 Q. Was it your intent to sensationalize that which you
4 depicted in your blog?

5 A. Not at all.

6 Q. And just in essence what does it depict, just
7 photographs of horses?

8 A. My blog shows photographs and videos of horses
9 being held at the holding facility.

10 Q. And then this caused public concern, at least as
11 far as you're aware, at least based on this e-mail,
12 Exhibit 5?

13 A. Yes.

14 MR. COWAN: Okay. Thank you very much.

15 THE WITNESS: Thank you.

16 THE COURT: Cross-examination?

17

18 **CROSS-EXAMINATION**

19 BY MR. PETERSEN:

20 Q. Ms. Gardner, you stated that the Broken Arrow
21 facility was closed on June of 2010?

22 A. Correct.

23 Q. Have you attended any of the tours at the Broken
24 Arrow facility that have been offered by BLM since 2010?

25 A. Yes, I have.

1 Q. And how many of those tours have you availed
2 yourself of?

3 A. I think I've been on two.

4 Q. Do you know the dates of those tours?

5 A. I can't recall. One was -- Counsel, for all
6 intents and purposes, the facility is closed --

7 Q. I'm sorry --

8 A. -- to the public.

9 Q. -- can you just answer the question that I asked
10 you?

11 Your Honor, will you, please, direct the witness to
12 answer the question?

13 THE COURT: Answer the question, please.

14 THE WITNESS: I'm working on it. I'm trying to
15 remember the dates and the tours. One was about a year
16 later. It was in July of 2011.

17 BY MR. PETERSEN:

18 Q. And the other?

19 A. It was, I believe, another year later, in April or
20 July of 2012. Somewhere in there. That -- it was about
21 two tours a year, I believe.

22 Q. Is that two tours a year? So you visited in
23 approximately July of 2011 and then June to July of 2012?

24 A. I believe so.

25 Q. Okay. Is that one time a year or two times?

1 A. I did not go on both tours. I went on one tour per
2 year. There were maybe -- there was one --

3 Q. So you went on two tours, one per year?

4 A. Correct.

5 MR. PETERSEN: Thank you.

6 MR. COWAN: Redirect, please.

7 THE COURT: Redirect.

8 MR. COWAN: Thank you.

9

10 **REDIRECT EXAMINATION**

11 BY MR. COWAN:

12 Q. Okay. Can you tell us about these tours compared
13 with the -- what your access was previously? Let's start
14 with the July 2011 tour you said you went to.

15 A. Witness laughs ironically. The tours that are now
16 offered that have -- the tours that have been offered
17 twice a year for the last two years are virtually
18 non-tours. I can't stop long enough to get to know a
19 horse.

20 When you walk -- these are individuals to us. I
21 can't know these animals as individuals when I'm sitting
22 in the back of a trolly going along at about five miles an
23 hour. And I feel uncomfortable. I have to yell, "Can you
24 stop, please?" every time I want to look at a horse.
25 Especially when there are 10, 15 more people there. I

1 don't know if they want to stop or not.

2 And it's a very -- it's not conducive to helping me
3 photograph and get the horses out there for adoption, to
4 identify them. They're going by so fast, I can't see.

5 Q. Okay. Maybe I can speed it up faster, and that is,
6 did this same process occur, in your experience, when you
7 also were there June 2012?

8 A. Yes.

9 Q. For that tour?

10 A. Yes.

11 Q. The tour was the same process as the one in
12 July 2012?

13 MR. PETERSEN: Asked and answered.

14 THE WITNESS: The tours were identical in the
15 way they were conducted, with people sitting in this
16 covered wagon, essentially, and being towed around the
17 facility.

18 BY MR. COWAN:

19 Q. And how did those tours compare to how it was
20 previously?

21 A. The previous tours were all on foot, walking. They
22 lasted a minimum of an hour and a half, up to four hours
23 at times. We were able to stop and photograph and video
24 horses. I identified several foals that -- whose mothers
25 were not anywhere to be found and who were ultimately sent

1 to another facility. There would be no way I could do
2 that from the trolly.

3 Q. Are you able to track -- well, let me back up.

4 How long was the trolly tour? How long did that
5 last in July 2011 and also June 2012?

6 A. I think it was about an hour.

7 Q. All right. And then are you able -- with the
8 trolly tours, the June 2012, July 2011 tours, trolly
9 tours, are you able to adequately track horses to help
10 with adoptions?

11 A. No.

12 Q. Are you able to follow up with any concerns that
13 you might have with horses that you might have observed?

14 A. I'm not.

15 MR. PETERSEN: Your Honor, objection. I
16 believe the plaintiff's counsel's questions are going
17 beyond the scope of redirect.

18 THE COURT: Well, I'll allow the question, as
19 long as it's confined to the trolly and her observations
20 during the trolly tours.

21 BY MR. COWAN:

22 Q. So the question is, are you able to follow up with
23 a horse you might have concern with with this trolly-type
24 tour June 2012 and July 2011?

25 A. No, I'm not able to follow up. I'm not able to

1 identify individuals. These animals are individuals to
2 me. And I'm not able to follow up. I can't assess them.
3 I can't introduce them to a public who is hungry, hungry
4 to know about them. My effectiveness is greatly
5 diminished in terms of helping these horses find homes.

6 Q. Okay. Thank you.

7 MR. COWAN: Thanks, Your Honor.

8 THE COURT: Mr. Petersen?

9 MR. PETERSEN: No other questions, Your Honor.
10 Thank you.

11 THE COURT: All right.

12 Mrs. Gardner, you may step down. Thank you.

13 THE WITNESS: Thank you, sir.

14 THE COURT: Your next witness?

15 MR. COWAN: Your Honor, my next witness would
16 be the plaintiff, Ms. Leigh. The question is do you want
17 to start now?

18 THE COURT: Yes, let's go ahead and get started
19 because I'm concerned that 1:30 hearing could complicate
20 this afternoon's schedule.

21 MR. COWAN: And, again, are we coming back --
22 will be back at 2:00?

23 THE COURT: Be back at 2:00. I would expect to
24 get started at 2:00. If we can't, it will be shortly
25 afterwards.

1 LAURA LEIGH,
2 called as a witness on behalf of the
3 Plaintiff, having been first duly sworn,
4 was examined and testified as follows:
5

6 THE WITNESS: I do.

7 THE CLERK: Please be seated.

8 State your full name for the record, and spell your
9 last name.

10 THE WITNESS: My name is Laura Leigh.
11 L-a-u-r-a. Last name Leigh, L-e-i-g-h.

12 THE CLERK: Can you please tell us your city
13 and state of residence.

14 THE WITNESS: Carson City, Nevada.

15 MR. COWAN: Your Honor, I just need a little
16 bit of direction from the Court on one issue, and that is
17 on standing. There's been some time, considerable time
18 that's gone by since we last met on this case. And I can
19 certainly establish a whole bunch more standing that -- of
20 this witness, that has occurred since then.

21 Do I need to do that? Or may I assume that the
22 Court recognizes Ms. Leigh's standing here today?

23 THE COURT: Well, I certainly recognize her
24 standing and certainly the standing that she had
25 previously. Because I don't know what you may be

1 referring to, if there's additional --

2 MR. COWAN: Well, Your Honor --

3 THE COURT: I mean, she's certainly qualified
4 to testify to this issue in the Court's view.

5 MR. COWAN: Okay. Thank you. Thank you.

6

7 LAURA LEIGH,

8 called as a witness on behalf of the
9 Plaintiff, having been first duly sworn,
10 was examined and testified as follows:

11

12 DIRECT EXAMINATION

13 BY MR. COWAN:

14 Q. Okay. Ms. Leigh, you reside in Nevada?

15 A. Yes, I do.

16 Q. Okay. And what do you do?

17 A. I'm a journalist, photojournalist.

18 I also now have formed an organization devoted to
19 the welfare and education of the public on the wild horses
20 and burros.

21 Q. What's that organization?

22 A. The organization is Wild Horse Education.

23 I do a lot of things in the capacity. I photograph
24 and document roundups. I document field conditions. I do
25 reports on drought this year and give -- shared those

1 reports with several different organizations and agencies.

2 I assist with adoptions. I've assisted BLM with
3 two trap-site adoptions in the last year; one at Diamond
4 and one at Stone Cabin.

5 I've been to more roundups than 33 areas. Was
6 sitting with a reporter the other day and we figured it
7 out that I've been to more than 400 operation days,
8 probably close to 500 operation days in the last three
9 years.

10 Q. Do you know of anybody who has been to more
11 roundups than --

12 A. No, not on my salary, okay.

13 Q. BLM included?

14 A. No. Except for the contractors themselves
15 probably.

16 Q. All right. Why do you do it?

17 A. I love wild horses. Wild horses and burros speak
18 to my soul as an American. I mean, they really -- I'm not
19 alone in that. You know, they represent the pioneer
20 spirit of the American West.

21 And, I mean, the act itself passed unanimously in
22 both houses of Congress. I have followers all over the
23 world. I have one video that's hit two million views.
24 This is a love that's shared by many.

25 Q. Okay. If the Court wanted to find the video clip

1 that has over two million views, how would you tell the
2 Court how to get to it?

3 A. It's on YouTube. It's called "Is It Bad Enough For
4 You? Wild Horses."

5 Q. All right. And can the Court or individuals see
6 that as well on Wild Horse Education's websites?

7 A. Yes, wildhorseeducation.org or our blog or one of
8 the other venues that we've been published in. It's been
9 mentioned in several magazines.

10 Q. Okay. So, what is your readership, your
11 viewership?

12 A. Like I said, I mean, there's one video with more
13 than two million hits. The video -- that one video itself
14 gets 5,000 hits a day. I have a viewership all over the
15 world.

16 The majority of my viewers are in America. But
17 I've got a huge following in Europe, you know, Africa,
18 China, Russia. People all over the world really love the
19 American West. When they think of America, they think of,
20 you know, cowboys and wild horses. And they still do.
21 And so wild horses are -- like I say, are followed
22 worldwide.

23 Q. Okay. How many miles have you traveled in your
24 quest to document, photograph, report on wild horses?

25 A. It's a fun statistic. A lot of people laugh about

1 it. I've traveled more than 200,000 miles in the last two
2 years.

3 Q. And how many vehicles have you gone through?

4 A. I've beaten up two vehicles pretty bad.

5 Q. And is that all paved highway miles?

6 A. Oh, yeah, uh-huh, right. Really well-paved
7 highways. Only in sunny weather.

8 About half of my miles are off-road and in extreme
9 weather conditions, either extreme heat or cold, snow.
10 It's not easy to do. You know, you drive all night or
11 drive across the state, and often the weather is bad.

12 I mean, Nevada is a state of extremes. And then
13 you're off-road and the terrain isn't easy. I mean, I've
14 had one roundup where I got six flat tires.

15 Q. All right. So is it then difficult to travel and
16 observe a wild horse roundup personally?

17 A. Yes. There's a physical toll as well. A financial
18 hardship. And, you know, huge time commitment.

19 Q. And that's what I was getting to, the toll on you
20 physically, emotionally.

21 A. Yeah, there's a huge emotional toll. This is
22 not -- you know, it's -- I mean, several of the other
23 witnesses -- and I don't even know if I'm allowed to
24 reference other testimony here -- but, you know, several
25 of the other witnesses talked about the extreme conditions

1 and the change that you see.

2 The roundups have changed. The pace is
3 accelerated. And the type of conduct that you see has
4 changed. I have spent the last four days with a reporter
5 from the Today Show and NBC Nightly News, and I gave them
6 access to my video library. And we went through and
7 looked at what I've witnessed.

8 And I'm emotionally raw from watching the type of
9 conduct that I've seen accelerate in my videos. So it's
10 not just the -- you know, the physical marathon of
11 running, but there's an emotional marathon here as well.
12 And then the games to see access, it is increasingly
13 difficult to identify individuals. It hurts. Yeah, it
14 hurts.

15 Q. So you said the games to see. What do you mean?

16 A. Access has -- becomes limited. And, you know,
17 often it depends on who's standing there. You know, one
18 wild horse and burro specialist might be in a better mood
19 than another one day, or one district will have a
20 different idea about what access is than another, and you
21 can go out.

22 And then depending, like, if I put out an image the
23 night before that doesn't portray them in a good light,
24 you know, the next day it almost feels like I'm being
25 reprimanded and I'm, you know, two miles away. And so

1 it's this constant -- you know, there's no other way to
2 describe it than a game.

3 Q. Are you compliant to -- with all rules --

4 A. Always. Always. I don't break a rule.

5 I mean, one day I was held -- and this was at
6 Silver King. I was held where there were no operations
7 happening at all, no chopper in the air, nothing, and they
8 told me I couldn't move. I ended up falling asleep in my
9 car and being held there for four hours on a public road
10 when they told me I couldn't move, I couldn't go anywhere.
11 If that's not a game, I don't know what it is.

12 Q. All right. Have you ever been either reprimanded,
13 arrested, detained because of what BLM might refer to as
14 inappropriate or similar conduct?

15 A. No, never for inappropriate conduct. I mean, I've
16 been detained because they don't want me to move. I've
17 been detained because, you know, they'll -- for one reason
18 or another. But never because I've broken a rule.

19 I mean, you know, we're all human beings. And I've
20 gotten to know a lot of BLM public relations people over
21 the last three years. And it's not their fault. I mean,
22 they're just doing their jobs. And so we have a -- you
23 know, many people I know their personal lives. I know
24 who's getting their kitchen redone or, you know, who is
25 looking for a new puppy.

1 I mean, we're all human beings. And it's not their
2 fault. I know that's their job. And I know their
3 directive is to, you know, haul me where they're told.

4 So, no, it's never because I've broken a rule or
5 I'm aggressive or out of line. You know, sometimes I cry
6 or I get angry about what I see. But I'm never aggressive
7 to the other people present.

8 Q. Okay. We talked about roughly how many roundups
9 you've been to; yes?

10 A. Yeah. You know, it's somewhere between 4 and 500
11 days of operation in the last few years.

12 Q. Okay. And how many facilities have you visited?

13 A. Holding facilities, like short-term holding
14 facilities? Let's see. Five.

15 Q. Five. Okay.

16 A. But I track the horses coming off the range. My
17 readership -- what my readership is interested in is the
18 horse. And so I'll go from whatever range the roundup is
19 occurring at and then try to track those horses into
20 holding to tell the story of the horse.

21 You know, it's not the story of a BLM PR person's
22 job that I'm telling, it's the story of America's wild
23 horse. And people see these horses as an individual.

24 So, for example, if a horse, you know, is rounded
25 up in Owyhee and they start going to Palomino Valley, I'll

1 go there. If the horses then get switched over to
2 Lichfield in California, I'll go to Lichfield. I've even
3 gone to Gunnison, which is where the horses -- the studs
4 from Silver King went to. And I was -- I had to be
5 searched, my vehicle searched before I was allowed to go
6 into Gunnison.

7 Q. And do you know why that is?

8 A. You mean at Gunnison?

9 Q. Let me back up. What is Gunnison?

10 A. Gunnison is a prison facility where -- it's very
11 hard to do without a visual. Okay. Imagine a large oval,
12 okay? It's a fenced compound.

13 There's a wild horse and burro facility in there.
14 Then imagine prison walls as another circle inside that
15 circle. Well, Gunnison is a prison in the second circle.

16 Q. Okay.

17 A. Okay.

18 Q. All right. And so as -- and so you had to be
19 searched, both you and your --

20 A. Well, I had to empty out my vehicle. Not just
21 searched. I mean, I had to empty out my vehicle. I'm an
22 epileptic. They took my medication before I was allowed
23 to go in there. They said it was contraband.

24 All I wanted to do was see a stud offload. I had
25 seen him at the roundup, and he was agitated. I want -- I

1 did facilitate his placement after all of this was said
2 and done.

3 But all I wanted to do was -- because he -- I was
4 concerned about his welfare. There was some issues with
5 his health. And I just wanted to see him offload because
6 of the -- I followed the trailer. I asked BLM if I could
7 follow the trailer and go to Gunnison Prison.

8 And they knew I was going to Gunnison Prison. They
9 knew I wanted to see this stud offload. And I was held at
10 the gates by the guards being searched while that stud
11 offloaded, and I never saw him offload.

12 Q. All right. In -- the manner in which you report to
13 the public, are you able to facilitate adoptions?

14 A. Yes. As a matter of fact, the first quarter
15 statistic last year, my organization was responsible for
16 more than 30 percent of the adoptions in the state of
17 Nevada.

18 Q. Okay. BLM included?

19 A. Well, BLM is -- yeah, in comparison with BLM, yes.
20 Yes. BLM was 70 percent, or other people, and we were 30.

21 Q. Okay. And so the access to the horse to tell the
22 story, is that important to you to --

23 A. It's the whole story. It's -- that's it. That's
24 the heart and soul of everything I do and what everyone's
25 interested in. It's also the heart and soul of the act

1 itself, is the horse.

2 Q. Okay. Is your access more or less the same in
3 different places?

4 A. Yeah. It's -- I mean, it's diminished over time.
5 You know, it's less than it is now. When I first began
6 observing roundups, I could identify individuals coming
7 into the trap. I could identify them at temporary
8 holding. I could track them to the facilities and
9 identify and facilitate their adoptions. It's not as easy
10 anymore.

11 Also from area to area, even mood to mood, things
12 can be arbitrary. I mean, they can seem relatively
13 arbitrary up there. But in general my access is much less
14 today than it was when I began observing roundups.

15 Q. And what do you attribute that to?

16 A. It could be coincidence. But the more I put out
17 what I see, the less my access becomes.

18 Q. You mean, the more you put out to the public --

19 A. Helicopter hitting a --

20 MR. PETERSEN: Objection, Your Honor,
21 speculation.

22 THE COURT: I'll allow the answer. I agree
23 with this subject to a certain amount of speculation.

24 THE WITNESS: You know, in the beginning, when
25 I first started observing wild horses and BLM handling of

1 wild horses, I hadn't made a statement of being an
2 advocate. For example, at processing facilities like
3 Palomino Valley, I was literally allowed to climb on the
4 processing chutes and chute down. They let me climb over
5 the top of the chute. I have horse knowledge since I was
6 a child. You know, I'm not disruptive.

7 And during the Calico roundup, I did make a very
8 bold statement of being an advocate after watching an
9 eight-month old colt's feet slough off in the -- which
10 means fall off, at the hospital pens in Broken Arrow. And
11 after I did that, I mean, you know, there was a screaming
12 match with the facility manager, and my access was shut
13 down and has diminished since.

14 BY MR. COWAN:

15 Q. Okay. Can you just give us a couple of examples of
16 how access has changed, a couple of particular examples,
17 in your mind, without going through all of them, because
18 we'll be here for a long time.

19 A. Yeah, we would.

20 Q. So let's just get some factually. Because all we
21 said, as far as that, well, it's changed. And so let's --

22 A. Well, temporary holding is a really good place to
23 begin.

24 Q. Okay.

25 A. Temporary holding, for example -- you've heard

1 other people say the same thing. At Calico I was within a
2 couple of feet of the horses. My head and shoulders were
3 literally at the panels. I was photographing through the
4 panels. There was no snow fencing in my way. I could
5 easily identify individuals. I could easily see any
6 injuries. Now --

7 MR. PETERSEN: Your Honor, could you ask the
8 witness to specify the time again. We're having trouble
9 with the dates today.

10 THE WITNESS: Well, the first Calico is
11 2009/2010. And so we're talking January 2010.

12 But, for example, if I go to a roundup, you know,
13 at Diamond, which is what I was just at, or the one before
14 that, which was Owyhee, which we're talking, you know,
15 2013, 2012, before that was Calico, before that was
16 Wassuk. I mean, I could go on and on and on.

17 Those roundups now at temporary holding, we don't
18 get to even -- I don't even go -- get to go down near
19 temporary holding once a day. I don't get to ever shoot
20 through the snow fencing. There are -- you know, a gap
21 could be left at each pen so that I could view those
22 horses in there. There's no gap. Those things are pulled
23 tight. I couldn't identify individuals.

24 The public will call me. BLM will put out a
25 report, for example, that an animal died of a pre-existing

1 condition. Now, if an animal has a pre-existing
2 condition, that means it should be something I should be
3 able to have observed, either at temporary holding or at
4 the trap at some point in time if I'm there every day.

5 So when the public asks me, "Laura, did you see
6 this horse with this pre-existing condition?" I have to
7 say no because I cannot see the animals themselves ever
8 anymore at temporary holding. It's completely hidden.

9 Now, BLM does something with statistics. They have
10 animal deaths. They sort them into categories. For
11 example, at the roundup if an animal has a pre-existing
12 condition and it's euthanized, it's not counted in a
13 roundup-death statistic as being related to the roundup.

14 So if an animal has a pre-existing condition --

15 MR. PETERSEN: Your Honor, I believe the answer
16 has become unresponsive at this point.

17 THE COURT: It has.

18 THE WITNESS: Okay. I'm just trying to give
19 examples and why the example is pertinent. But I will go
20 to a different example if that helps.

21 BY MR. COWAN:

22 Q. We were talking about temporary holding and why you
23 were not able to see certain horses; yes?

24 A. I believe, and I don't know, maybe the reporter
25 could read back the question, was that you had asked me

1 for examples of how access had changed?

2 Q. Yes.

3 A. Was that the question?

4 MR. COWAN: Okay. Ms. Court Reporter, could
5 you, please, read back the question?

6 THE COURT: No. That was the question. Go
7 ahead.

8 THE WITNESS: That's what I thought. Okay.
9 That's one example of how access has changed. Broken
10 Arrow is also another example.

11 Tracking horses from roundup to facility. So if I
12 see something happen at a roundup and I see a horse trap
13 or a colt trap, I cannot track the animal if it goes into
14 Broken Arrow. Eagle. I drove to Broken Arrow. I stood
15 outside. So I can't track that horse into that facility.

16 There's still horses in Silver King that went into
17 Broken Arrow. I was not able to track them when they went
18 into Broken Arrow because Broken Arrow was completely
19 closed to me. And I was completely not able to report on
20 those horses nor help facilitate any adoptions out of --
21 you know, out of Silver King, except for the few that I
22 was able to adopt, myself and a couple of other people,
23 but I couldn't track them at all. To this day, I still
24 can't track Silver King horses in Broken Arrow.

25

1 BY MR. COWAN:

2 Q. All right. I want to get back, before I forget,
3 okay, and have you look at a couple of exhibits that are
4 in front of you.

5 THE COURT: Well, let me stop for a minute. I
6 thought you may have strayed from temporary holding there
7 when you were talking about Broken Arrow and Silver King.

8 THE WITNESS: Yeah, that was a different --

9 THE COURT: Are you talking about temporary
10 holding at Silver King and Broken Arrow, or are you
11 talking about follow-up?

12 THE WITNESS: I was talking about being able to
13 follow up, Your Honor.

14 THE COURT: All right. Go ahead.

15 MR. COWAN: I'm sorry. Okay.

16 BY MR. COWAN:

17 Q. Maybe I interrupted you. Were you finished with
18 your answer on that? On following up the horse? Being
19 able to follow up the horse?

20 A. Well, yeah. I believe what you had asked me for
21 were instances how access has changed. And all I was able
22 to do was give you two. I mean, I could sit here and list
23 several more areas, how access has changed over time. But
24 if you want to go to another subject and have me look at
25 these pictures, I can.

1 Q. Okay. I do want you to -- but I need to look at
2 this -- have you look at this quickly, Exhibits 3 --
3 marked Exhibit 3 and 4 in front of you.

4 A. The photographs?

5 Q. Yes.

6 A. Uh-huh.

7 Q. Did you take these photographs?

8 A. Yes, I remember these photographs. These
9 photographs were the only ones that were allowed at our
10 first hearing.

11 MR. COWAN: Well, actually, I just want to
12 bring the Court up to speed.

13 Your Honor, there was an Exhibit 1 that was entered
14 into evidence November 16th, 2010. It was only the first
15 three pages of these photos because historical access was
16 not allowed previously. And so the last two pages were
17 omitted.

18 These were the same two exhibits, only they have
19 Calico, those last two pages, attached to them. And if I
20 just -- I'd just like to be able to get them admitted with
21 a couple of questions, if that's okay.

22 THE COURT: I'll allow you to do that. And
23 I'll take it as an entire exhibit because that's easier
24 than trying to find what you admitted back in the first
25 hearing.

1 MR. COWAN: I pulled this off the website, Your
2 Honor, just to make sure what was there. And I recall
3 that we had -- those last two pages were taken off.

4 THE COURT: Okay.

5 BY MR. COWAN:

6 Q. So Exhibits 3 and 4, did you take those pictures?

7 A. Yes, I did.

8 Q. Do they adequately represent that which are
9 depicted?

10 A. Yes.

11 Q. Okay. And the last two pages, can you tell us
12 where those were taken?

13 A. Those were from the Calico complex roundup in
14 January 2010.

15 MR. COWAN: Your Honor, I would offer them.

16 THE COURT: Any objection?

17 MR. PETERSEN: Your Honor, the federal
18 defendants object to that evidence being introduced for
19 the same reason that we objected at the beginning of
20 today's hearing, suggesting that the only information that
21 should be coming into evidence in the federal government's
22 position with regard to other gathers would go to
23 historical access or the benefit of the public.

24 But I believe this Court had indicated that it
25 thought that those -- that information was important as it

1 went to other issues. And so we have refrained from
2 objecting up to this point.

3 THE COURT: All right. I appreciate your
4 objection, and I understand it. And the objection will
5 stand. But the Court does overrule it because I see some
6 connection between these photographs and the issues
7 presently before the Court.

8 (Plaintiff's Exhibit Nos. 3 and 4,
9 received into evidence.)

10 MR. PETERSEN: Thank you, Your Honor.

11 MR. COWAN: Okay. So do we have time?

12 THE COURT: Yes. We'll go a couple more
13 minutes. Why don't you finish up with this exhibit, and
14 then we'll take our break.

15 MR. COWAN: Okay. Thank you.

16 BY MR. COWAN:

17 Q. So tell us what the last couple of pages of
18 Exhibits 3 and 4, what do they --

19 A. Well, the document marked 25.2, page 4 of 5 --

20 Q. Yes.

21 A. -- is that a good way to identify it?

22 Q. Yes.

23 A. Okay. Basically it outlines some of the
24 observation that was given to the public at Calico. At
25 one roundup, you know, they talk sometimes about their

1 being an open area and no place to hide the public. Well,
2 this -- you know, the top photograph on page 4 of 5 is an
3 open area. And the public was spread out and just
4 standing out in the open at that point in time.

5 Right now they wouldn't let anyone stand there,
6 even though no accidents were caused by the public being
7 there, no issues were caused by the public being there.
8 Today that would be an unacceptable location for the
9 public. Why, I'm unclear.

10 The second photograph there is actually the trap.
11 During runs the BLM allowed us to go down and actually
12 view the horses at the trap before they were transported.
13 They don't allow that at all anymore.

14 So, for example, the record of decision in Silver
15 King takes us to the end of 2013. So if Silver King was
16 put on the roundup for next week, because we could do a
17 roundup next week, I would not be allowed to go down to
18 the trap like this today at Silver King. That would not
19 happen.

20 But like I said, that second picture is not
21 temporary holding. That's the trap. That's how close I
22 am to the trap.

23 The bottom photo is temporary holding. I wanted to
24 get some photographs in there. And a BLM personnel would
25 pull back the jute if it was in my way. I mean, I

1 literally had my camera between the posts and taking
2 photographs of these horses. I mean, you can see how
3 clearly I can identify every individual in there.

4 Q. Comparison today, temporary holding --

5 A. Oh, absolutely not. I cannot identify individuals
6 at all at temporary holding. Snow fencing is up. I'm
7 kept often on ground level. I'm not given an elevated
8 position to look from.

9 And if you're trying to look through that or
10 photograph through that snow fencing, it's impossible at
11 ground level. I can see -- if I lay on the ground,
12 sometimes I can see feet. And if I'm lucky that it's a
13 range where the horses that are coming off are tall, I can
14 see their ears. And that's about it right now at
15 temporary holding.

16 I will get a walk-around. But, again, it's at
17 ground level. And that only occurs once a week. It would
18 be real easy to facilitate it by creating gaps in the snow
19 fencing in each pen. But, again, they don't even allow me
20 to walk around.

21 There were deaths at the Owyhee roundup and a
22 couple of the recent roundups that I was at. I mean
23 just -- even just weeks ago. Okay? I'm always out there.
24 All right. Where people -- BLM would report a death, and
25 the public would want information on that animal that

1 died.

2 And I would have to respond: I can't give it to
3 you. I never saw the horse. I can't give you an
4 alternative perspective but the government's. I have not
5 seen it. I can't even give you a photograph and let you
6 make up your own mind. I did not see it. I know nothing.
7 That's how restricted I am now. I can't answer.

8 Q. Okay. While we're on this exhibit, can you go
9 through the first three pages?

10 A. Sure. That's Silver King.

11 Q. Okay. What are we seeing on the first page?

12 A. The first page, when we came up -- this one trap
13 was kind of interesting. It only had snow fencing on one
14 side. And it was the side where the public observer sat.

15 The second photograph you can see a woman kind of
16 skyline there sitting on a rock. I had asked to sit
17 there, and I was told that I couldn't sit there, I had
18 to -- you can see where I'm taking the photo from. I'm a
19 considerable distance away from that person.

20 That person is another member of the public. It's
21 actually Suzanne Roy from AWHPC. I mean, I remember that
22 day. And I was told I couldn't go there. And Suzanne
23 just went right up to the rock and sat down. And she was
24 fine. Nobody told her she couldn't go anywhere.

25 Q. Well, what's on the other side of that hill, if you

1 know?

2 A. That's the direction that the horses were being
3 driven from into that trap.

4 Q. Okay. So you couldn't see anything?

5 A. I couldn't see anything. The horses were roped
6 back there. I couldn't see anything at all. Nothing.

7 Q. Next page, page 2 of 5?

8 A. Next page, if you look at the row of cars, you can
9 kind of see right above the -- it's real funny. I'm
10 having flashbacks. Right above the white car, there's two
11 people standing. One of them is Deniz Bolbol and one is
12 Chris Hanefeld.

13 I had been at this trap prior to the arrival of
14 other public observers. I had been there for a couple of
15 days. I had asked if I could stand on that road, to try
16 to see the horses come in. Because where I was, I
17 couldn't see the horses in the trap pen.

18 And I was told, "Absolutely not, Laura, you can't
19 go down there."

20 Well, Deniz got there, put pressure on the public
21 relations people, and, you know -- and she was allowed to
22 immediately go down. I wasn't. However, I was allowed to
23 go down -- it's the next photograph, after pointing out to
24 Chris, hey, Chris, that's not fair. And if I had walked
25 15 feet to my right, I could have seen the animals coming

1 into that trap. But, instead, I was held at this
2 location. And you can see, I can't see anything. I mean,
3 nothing.

4 Q. Okay. Next page.

5 A. Next page.

6 Q. That is page 3 of 5.

7 A. Okay. We're still at the same trap. That's the --
8 there's a little hill in the foreground and a little human
9 being with a blue shirt on the top.

10 Q. On the top of it?

11 A. Standing upright. Okay?

12 Q. At the top photograph?

13 A. Yes, the top photograph. There's a shadowy area
14 and a hill closest to you. Not far away, but close to
15 you. Right in the middle of the photograph. Do you see
16 the human being?

17 Q. Yes.

18 A. That's BLM personnel. He's standing upright.
19 Right now I'm crouched behind a rock being told not to
20 move, not to sneeze, not to breathe too loud because
21 horses are being driven in. Well, the man is standing
22 skyline.

23 Q. And in relation to you and this man, are the --

24 A. The horses are being driven in front of that hill
25 where that man is.

1 Q. Okay.

2 A. Okay.

3 Q. Second photograph down --

4 A. Oh, the second photograph, it's just interesting.

5 That's all I could see of the whole run. I mean, I
6 started just taking pictures of the chopper because I
7 couldn't see horses. The trap was hidden behind a
8 hillside. And no observation of capture occurred. I
9 mean, I couldn't see anything.

10 The bottom picture --

11 Q. The third picture, go ahead.

12 A. The very bottom picture, the trap is -- see where
13 the dip is between those two hills in the distance? Even
14 with my camera at full zoom, you couldn't even see the
15 trap. Kind of where -- I think that's Chris Hanefeld, the
16 second person over. It looks like his hat. The trap is
17 kind of right by the brim of Chris Hanefeld's hat. You
18 can't see it at all. I mean, let alone being able to
19 identify horses, I couldn't even identify the trap, okay?

20 Q. Do you have an estimate of how far that trap was in
21 that photograph from where you were?

22 A. Mile and a half, mile. Mile and a half.

23 Q. All right.

24 MR. COWAN: Well, I'm done with that exhibit,
25 Your Honor. What would you like to do?

1 THE COURT: Let's go ahead and take our --

2 MR. PETERSEN: Your Honor, may I? Your Honor,
3 when we originally had envisioned today's hearing, we had
4 estimated that it might take one morning. And I know the
5 Court had said it would set aside most of the time just in
6 case. Judging on the time today, I'm a little concerned
7 that, based on the testimony that the plaintiffs have put
8 forward and still have to put forward, that the federal
9 defendants won't be able to finish their presentation of
10 evidence today. And I ask the Court's advice on
11 availability tomorrow or --

12 THE COURT: We can go all day tomorrow if we
13 need to.

14 MR. PETERSEN: Okay. Thank you, Your Honor.

15 THE COURT: Okay. We'll take our noon recess.
16 And I'm going to attempt to resume at 2:00. I'd like to
17 have you here at that time. And if we can, we will; and
18 if we can't, it will be as soon thereafter as we can.
19 Thank you.

20 (The noon recess was taken.)

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1 RENO, NEVADA, FEBRUARY 19, 2013, 2:05 P.M.

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4 THE COURT: Have a seat, please.

5 Mr. Cowan, go ahead, please.

6 BY MR. COWAN:

7 Q. Okay. Have you attended roundups where you've been
8 discriminated against in terms of your access compared
9 with others?

10 A. Yes, I have. It was actually several times. There
11 was a time at the Twin Peaks roundup of 2010, and the New
12 York Times, for example, showed up. BLM was, at that
13 time, giving different access to the press than they were
14 giving to the public. And I became a credentialed member
15 of the press through Horseback Magazine.

16 I gave my press credentials to the people that were
17 there. The New York Times showed up, but they were
18 given -- they were literally in the jute of the trap at
19 the drive, and I was held a considerable distance back.

20 And it was really interesting that day. I was
21 standing -- went to a public road to stand because I
22 couldn't see the horses coming in at all. I did not have
23 the access that the New York Times had. And I went to
24 take a picture of the horses and the trailer being removed
25 from the trap so that I could at least identify them, and

1 I was told to move back or things could go to the next
2 level and I could be removed from the roundup. So I did
3 go back to where the rest of the public was and never got
4 the same access as the New York Times.

5 There was another time down in -- at Paymaster
6 Montezuma, which is in the Tonopah area. I went down
7 there. And again, you know, media was the bar. And I
8 presented my credentials to Tom Seley, who was the BLM
9 manager at the time running that roundup. And he wouldn't
10 even take my press credentials out of my hands. But he
11 allowed a member of the Las Vegas Sun down at the trap and
12 literally allowed him to put a remote controlled camera at
13 the mouth of the trap.

14 And I was actually held behind a hill and could see
15 nothing of the drive, nothing at all. I could not
16 identify a single animal going into the trap at the exact
17 same time as a reporter from the Sun was at the trap.

18 Q. Okay. Any other instances?

19 A. Those are the two most glaring incidences.
20 However, there have been occasions where BLM will
21 designate an observer for one purpose or another.

22 Recently the purpose is to create this humane care
23 protocol. And so they've had members from the public down
24 there from, like, the AAEP, which is a pro-slaughter, you
25 know, veterinary association, and they'll have them at the

1 trap. Or, you know, another -- someone else that's going
2 to give some kind of recommendation. But they're members
3 of the public, not BLM employees or contract staff. And
4 they have been down there.

5 Q. Okay. Has anybody from the BLM told you that you
6 can't get any closer because of safety concerns?

7 A. That seems to be the -- you know, the most often
8 used reasoning. However, it is -- it's arbitrary. You
9 know, I mean, if I could have the access -- that type of
10 access at Calico, how come it's a safety restriction
11 elsewhere? When there were no safety restrictions at
12 another roundup and no one was hurt, no animal was
13 injured, there was no issue, how can a safety restriction
14 then crop up from -- randomly from district to district?
15 And the safety restrictions seem to change depending on
16 what district I'm in.

17 MR. PETERSEN: Objection. Objection.
18 Speculation.

19 BY MR. COWAN:

20 Q. Is it your --

21 THE COURT: Sustained.

22 BY MR. COWAN:

23 Q. Is it your impression that --

24 THE COURT: She can testify to the different
25 restrictions, but --

1 MR. COWAN: I'm sorry.

2 THE COURT: Go ahead.

3 MR. COWAN: Okay.

4 BY MR. COWAN:

5 Q. Your impression is -- is your impression that
6 restrictions change depending on what district you're in?

7 A. Yes. Well, even what day in the same district
8 often as well. You know, things --

9 MR. PETERSEN: Objection, Your Honor. The fact
10 that it's her impression doesn't change that it's
11 speculation.

12 THE COURT: Sustained. She can describe
13 different restrictions, but --

14 MR. COWAN: Okay.

15 BY MR. COWAN:

16 Q. Well, let's get an example of different
17 restrictions in the different districts.

18 A. At the beginning of a roundup, for example, I could
19 be close. I could be maybe 500 feet from the trap --

20 MR. PETERSEN: Objection, speculation.

21 THE WITNESS: I'll give a specific roundup
22 date. I was at a roundup, for example, at -- we could
23 talk about Battle Mountain Stone Cabin last year, where I
24 was actually assisting on the trap-site adoption. So
25 viewing individual animals was really, really important

1 for me at the time.

2 And the first day I was allowed to stand on top of
3 my vehicle at temporary holding about 30 feet so that --
4 because I couldn't photograph through the snow fencing to
5 identify animals for adoption, I was allowed to stand on
6 top of my vehicle and photograph the animals.

7 And by the next day, I was a hundred -- about a
8 hundred feet, and no lie, standing on top of my vehicle.
9 There was still an issue with that. They pulled a trailer
10 in front of me, and my access to holding completely
11 disappeared after that first day. So the first day there
12 was no safety concern.

13 And the second day at Stone Cabin, even though I'm
14 trying to assist in the placement of adoption of animals,
15 my access -- there were arguments that I witnessed between
16 BLM personnel and contract staff. It seemed that the
17 contract staff was more in control of my placement than
18 BLM.

19 BY MR. COWAN:

20 Q. Okay. Do you generally just go where the BLM puts
21 you?

22 A. Yeah. I don't argue. I mean, like I said before,
23 these people are human beings. And I know they're
24 following whatever protocol or rules they're given by the
25 people higher up. And for me to sit there and argue with

1 someone is pretty pointless.

2 You know, if there's a better location, I may ask.
3 But if it's denied, I don't sit there and fight. I
4 just -- you know, my hope is that we can, you know, take
5 this through the appropriate channels and get some more
6 guidance. And then the people on the ground will get the
7 guidance they need, and we'll get to see the horses again.

8 Q. Okay. How have restrictions affected your ability
9 to report to the public, those to whom you report?

10 A. It's affected my ability to report on individual
11 horses a great deal. Like I said in the beginning, when I
12 first began to observe roundups at Calico '09/2010, I was
13 able to identify animals coming into the trap. I was able
14 to identify them at holding. I could tell a story about
15 an individual animal.

16 I could then track that animal into holding. And
17 people followed those stories. I could track a tag number
18 for adoption. If people had questions about the health or
19 welfare of an animal, I could answer them. It's extremely
20 difficult to do that, for example, at holding. If an
21 animal, say, is captured on a Tuesday and I can't identify
22 it going into the trap, I'm not allowed to approach
23 temporary holding and see it. By Wednesday it's removed
24 from the range. And I may get a walk-around on Saturday,
25 but that animal's been gone for days.

1 So I can no longer tell that type of story to my
2 viewers. I can give more of an overview of kind of
3 operational procedure and the changes that I see. But
4 that ability to tell that story of the horse, which is why
5 I'm out there, and what -- there seems to be a very
6 different psychology here.

7 My viewers and the American public at large and
8 people all over the world, you know, they'll fall in love
9 with a stallion on the range, this black stallion with an
10 incredible family, and they want to know what happens to
11 that stallion and his foals.

12 Or they'll see a baby come in that maybe was
13 exhausted when it came in. I mean, in Owyhee there was
14 one that was draped over the saddle it was so exhausted.
15 And I have not been able to see that baby, not once since
16 it came off the range. It's been hidden from my view. So
17 I can't tell people how he's doing. I cannot report like
18 I did in the beginning. It's very, very frustrating.

19 And then there's -- I'm out there because I love
20 these horses. These horses individually touch my soul. I
21 can't track the baby I watched run in exhausted and draped
22 over that saddle and whisked out of my view and I never
23 see him again. And it breaks my heart because I've
24 watched babies after roundups. I've watched one while his
25 feet were literally falling off. He was dying. And I was

1 lied to about his well-being until he died 14 days later.
2 And so if I can't see it, it breaks my own heart, let
3 alone the people I'm reporting to. And I do not have the
4 ability to do that.

5 I followed a baby from a range at Eagle that I saw
6 fall three times. I went to Broken Arrow and begged to
7 see him again, and I was denied access to see him. And
8 that week I read that there were three colts euthanized
9 for broken legs. I will never know if he was one of them,
10 ever.

11 Q. Okay. When did that take place?

12 A. That took -- Eagle was winter 2011. 2012. Yes.
13 I've been viewing my footage for the last four days. So
14 for me right now, there's this blur of roundup activity.
15 And so Eagle was in the wintertime. It was extremely
16 cold. I can define the trap for you. And I'm pretty sure
17 it was November/December of 2011.

18 Q. Okay. And then the incident regarding a little
19 foal draped over a rider's saddle.

20 A. That was at Owyhee 2012. That's recent. And I
21 have not seen him.

22 Q. Okay.

23 A. He went to Palomino Valley, and he's off limits.
24 He's in hospital pens that I have no access to. I have
25 not been able to see him.

1 Q. Okay. And when you said --

2 A. Little sorrel with a blaze.

3 Q. You got a picture of him?

4 A. Sure do. In my heart.

5 Q. At roundups how many pictures do you take on the
6 average, on a day?

7 A. Two to three thousand still images at a roundup,
8 and probably about four to six hours of video daily. And
9 then multiply that. I mean, I have you know, four
10 two-terabyte external hard drives filled.

11 Q. Okay. And estimated, how many images?

12 A. Hundreds, thousands -- over a hundred thousand.

13 Q. Okay.

14 A. And tens of -- about 10,000, maybe close to that,
15 of video hours.

16 Q. Well, for you, what would you consider fair access?

17 A. The ability to identify individual animals. Access
18 close enough to the trap. The thing is this is not
19 impossible. It's been done in the past.

20 And if terrain is a -- you know, if there's an
21 issue with terrain, they brought in trailers so people
22 could see. They set up jutes so people could see. They
23 bring in other people that they select so they can see
24 that can identify animals. They can do it with the
25 public. They can do it with the media.

1 I want to be able to see individual animals
2 brought -- come into that trap. I want to see how my --

3 MR. PETERSEN: Your Honor, objection. The
4 plaintiff has not established that she has any level of
5 expertise as to what appropriate level of access is. She
6 is commenting on what she would like.

7 THE COURT: Sustained.

8 MR. COWAN: Okay.

9 BY MR. COWAN:

10 Q. Can you give us your background in terms of what
11 you consider -- well, let me back up.

12 Do you have a background in what you think is
13 appropriate access as a member of the press, as a
14 credentialed press member for a magazine?

15 A. When -- at Twin Peaks, when I was at Twin Peaks,
16 and there were some issues with access, Tom Gorey from the
17 DC office, BLM DC office, came down. And Tom Gorey and I
18 worked on what we called an access protocol.

19 And that access protocol created, if there were
20 more than one member of the public or press that show
21 up -- and 99 percent of the time it's only me out there,
22 but if there was someone other than me, we could create a
23 rotational access.

24 I was given access to the trap where I was 100 feet
25 or closer to the trap. And I had access close enough to

1 assess the condition of the animals coming into that trap,
2 take a respiration rate, and see the handling during
3 loading well enough to determine how it affected the
4 animals. I did have that access at Twin Peaks.

5 Q. Okay. And in your experience, is that the type of
6 access that benefits you in your job and in reporting to
7 the public?

8 A. Absolutely. I can accurately report on what I see.
9 I can also take video and simply show it, and the public
10 can draw their own conclusion. When I can't see that, I
11 can't show it.

12 Q. Based on your historical experience in roundups --
13 you're going to go to some more roundups, aren't you?

14 A. Oh, absolutely.

15 Q. Okay. Do you have an impression, or do you
16 perceive -- or do you have a perception, of how your
17 roundups -- future roundups, let's say at Silver King, how
18 your access would be there?

19 A. If there were a roundup at Silver King tomorrow,
20 and it's within the realm of possibility -- you know, they
21 can round up through the end of February, and it's, you
22 know, clear through the record of decision, so if, you
23 know, they popped it on the schedule, I would imagine it
24 would be identical to the roundup I was just at, in which
25 the same district participated, which was Diamond.

1 Q. And what was that access?

2 A. At temporary holding. I could not identify
3 individual animals. The walk-around was once a week. You
4 know, it was what it's been. It's highly restricted
5 access.

6 I'm not close enough to really view individual
7 animals coming into the trap. You know, I can't assess
8 their condition or handling well enough coming into the
9 trap. And at temporary holding I -- you know, it's very
10 limited. It's extremely limited. It's not what it was in
11 the past. It's not what it was at Calico. It's not what
12 I had at Twin Peaks. Since that time, I'm more and more
13 restricted.

14 Q. Have you been inspired at all by some of the
15 pioneers who have gone out on the range and reported wild
16 horse roundups?

17 A. Yeah. There are some amazing advocates in the
18 history of the wild horse and burro crusade. And many of
19 them went out and documented, did a lot of what I do, you
20 know, one of which was Velma Johnston, known as Wild Horse
21 Annie. She was an advocate. And she was key in the
22 creation of the Wild Horse and Burro Act.

23 She did go out and document. For example, she was
24 at Stone Cabin, the first roundup done by the BLM, where
25 she was on site overseeing humane handling for wild horses

1 and burros and participated in that, you know, wrote a
2 recommendation letter to Sue Cattoor and -- you know, for
3 trying. I mean, she was right there.

4 I read a lot of what she wrote. And I've seen a
5 lot of the documentation that was gotten from people in
6 those very early years.

7 I have not gotten one single photograph from the --
8 with the type of access those people had. Not one. The
9 closest access that we heard today -- you know, if you
10 think of the Wild Horse and Burro Act, the first roundup
11 ever under the act in -- you know, in 1975 to today, Terri
12 Farley was out on the range in 2002, and the access, the
13 conditions were pretty darn close to what they were in the
14 beginning.

15 But if you look at, you know, from 2002 to today,
16 it's deteriorated so quickly it's -- it makes your head
17 spin.

18 Q. Do you think your work is beneficial to the public?

19 A. Absolutely. I mean, in a democratic process, even
20 discourse is beneficial. The public needs to comprehend
21 what their government participates in and how their
22 government handles their tax funds and manages their
23 public resource.

24 Wild horses are a public resource, a spiritual
25 public resource. And for the American public to be able

1 to see that which the government holds -- you know, tries
2 to inhibit, is beneficial.

3 For example, you know, the first quarter of last
4 year our organization was responsible for more than 40
5 adoptions, which was more than 30 percent of adoptions in
6 the entire state. You know, I mean, there's -- of course,
7 it's beneficial.

8 Q. Do you think your work is beneficial to the
9 roundups themselves?

10 A. I do. I do think it is. I think that when there
11 is an observer to any -- anything that's occurring,
12 whether it be someone doing paperwork or someone handling
13 animals, that they're going to be a little more mindful,
14 perhaps, about what they're doing, a little more careful,
15 perhaps, about what they're doing when they know they're
16 being watched.

17 I know that what I've put out has created great
18 conversation that's gone to Congress about humane handling
19 protocol. The work I do on the range with -- you know,
20 statistical work and drought stuff, has gotten people
21 involved in land use planning where they didn't even know
22 land use planning existed before.

23 I think wild horses is an extraordinary window and
24 doorway to the American public to understand how their
25 public resources are managed on their public land. And

1 wild horses, you know, not only that, are inspiring.

2 You know, when you're at the roundup and these
3 animals are losing their freedom, there's a -- you know,
4 some of it is tragic and yet beautiful at the same time.
5 These animals have an extraordinary spirit that we, as
6 Americans, once identified with. And I think that that
7 kind of -- that reminder is also beneficial to the public.
8 I mean, I could go on and on and on.

9 Q. Well, you've been to enough roundups to, for
10 example, hypothetically, and maybe you've done this, and
11 tell me if this is not a hypothetical, where you can go
12 down to the pens north of town, on Pyramid Highway, and
13 identify, just based on what those horses generally look
14 like out there, what area of the state of Nevada they came
15 from?

16 MR. PETERSEN: Objection. Confusing, leading,
17 speculative.

18 THE COURT: And not relevant. Sustained.

19 MR. COWAN: All right. I guess that's all I
20 have. Oh, hold on. I'm sorry, Your Honor. I had one
21 more thing. I apologize.

22 THE COURT: Go ahead.

23 BY MR. COWAN:

24 Q. Do you have before you Exhibit 5?

25 A. Yes, I do.

1 Q. Okay. Are you familiar or aware of this e-mail?

2 A. Yes, I am.

3 Q. Can you tell me what it is, please?

4 A. Many of us that went out to Calico and tracked the
5 horses at Broken Arrow, you know, we became very concerned
6 about the condition of the animals. And we did put out
7 reports.

8 And, you know, public interest really peaked about
9 the type of handling that they viewed at Broken Arrow.
10 They had not seen anything like that before, a lot of the
11 images. I mean, I put out a photograph of a foal that had
12 starved to death, born in that facility and starved to
13 death. So BLM was under quite a bit of scrutiny, public
14 scrutiny at the time.

15 After the facility closed, we were told that the
16 facility was never intended to be open to the public. So
17 someone who was working with me at the time, Debbie
18 Coffey, FOIA'd the contracts and all the information that
19 had to do with the contract of Broken Arrow.

20 We did get the contract. And the contract does not
21 state that. It actually says it's supposed to have public
22 viewing through 2015. But in with those FOIA documents
23 was this e-mail, with Dean Bolstad's request to close
24 Broken Arrow.

25 And we were pretty surprised when we read, you

1 know, the statement that the -- that, you know, John
2 Neill's and the veterinarian's reputation is seriously
3 being compromised by the fallout from our Indian Lakes
4 tours as part of the reasoning.

5 BLM said that it was very expensive. And in the
6 documents that were FOIA'd to the reasoning why the
7 contract -- you know, the contract itself and the
8 documents, there was never any expense log. There was
9 never any other documentation for any other reasoning
10 except this e-mail. That's all we were given in the FOIA.

11 MR. COWAN: Okay.

12 MR. PETERSEN: Is that all, Mr. Cowan?

13 MR. COWAN: That's all I have. Thanks.

14 THE COURT: Cross-examination?

15

16 **CROSS-EXAMINATION**

17 BY MR. PETERSEN:

18 Q. Ms. Leigh, just -- could you clarify? What was the
19 first wild horse gather that you attended?

20 A. It was Calico --

21 Q. The 2000 --

22 A. 2009/2010. Yes.

23 MR. PETERSEN: Thank you. No more questions.

24 THE COURT: Any redirect?

25 MR. COWAN: None, Your Honor. Thanks. That

1 was easy.

2 THE COURT: All right.

3 You may step down. Thank you.

4 (Partial transcript concluded.)

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I certify that the foregoing is a correct
transcript from the record of proceedings
in the above-entitled matter.



7/1/13

Donna Davidson, RDR, CRR, CCR #318
Official Reporter

Date